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**FROM TOTALITARIANISM TO DEMOCRACY: THE
CASE OF POLAND, CONTROVERSIES AND HERITAGE
OF COMMUNISM**

by

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CONTROVERSIES AND HERITAGE OF COMMUNISM**

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ABSTRACT

Poland's transition from totalitarianism to democracy began in the late 1970s and brought the staged end of the communist system by 1989. The strikes by Polish workers in 1976 against increasing food prices, backed by a dissident intelligentsia, sparked a chain of events that, barely thirteen years later, led to the first non-communist government in Poland in over forty years. Although this change of political system was conducted in a peaceful manner, there has always been a camp who has posed the question of why Polish democracy had to be based on compromise with the old regime, and whether compromise was really the only possible solution. After eighteen years, Poland still faces issues of lustration and decommunization that were avoided in 1989, when secret police agents and collaborators were allowed to remain on the political scene and influence many aspects of life in Poland.

This thesis examines how Poland's peaceful revolution happened as it did and discusses how to handle collaborators with the communist regime. It also probes the new debate about decommunization and lustration, launched after the election of 2005, which gave victory of the vehemently anti-communist Peace and Justice Party.

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I. INTRODUCTION

Poland's transition from totalitarianism to democracy began in the late 1970s and brought the staged end of the communist system by 1989. The strikes by Polish workers in 1976 against increasing food prices, backed by a dissident intelligentsia, sparked a chain of events that, barely thirteen years later, led to the first non-communist government in Poland in over forty years. Deteriorating economic conditions, the continuing problems of economic reform, persistent strong opposition even after the military coup of General Wojciech Jaruzelski in 1981, and the continuing weakness of the ruling regime all turned out to be steps towards the final collapse of communism in 1989. The final stage involved negotiations between the government and the opposition known as the Roundtable Talks, which led to a partially free parliamentary election and restored the upper chamber of parliament and presidency. The communist government did not expect the staggering electoral defeat it experienced in June 1989, and shortly afterwards the communists lost power. Although this change of political system was conducted in a peaceful manner, there has always been a camp who has posed the question of why Polish democracy had to be based on compromise with the old regime, and whether compromise was really the only possible solution. After eighteen years, Poland still faces issues of lustration and decommunization that were avoided in 1989, when secret police agents and collaborators were allowed to remain on the political scene and influence many aspects of life in Poland.

These questions came back in force with the elections of 2005, when the vehemently anti-communist Peace and Justice Party, set up and led by former Solidarity activist Jaroslaw Kaczynski, won and formed a new government. Jaroslaw's twin brother, Lech, later won the presidential election, after which the winners launched a new debate about decommunization and lustration. Both these processes are considered by the Kaczynskis to be vital to the future of Poland, who envision the creation of a fourth republic in Poland wherein persons having any relationship with the former regime are

condemned and excluded from political and economic life. A big debate now centers on how to view and treat people who collaborated with the communists and how to open and verify secret police archives.

This thesis will examine Poland's continuing struggle to change from communism to democracy since the 1970s. It will analyze this democratic transition as it concerns the past's burden on the present, as part of a broader, European-wide coming to grips with the late 20th and early 21st centuries. This work will consider the stages by which the communist system ended in central Europe and the importance of the same in contemporary Polish debate about who lost and who won in the transition to democracy.

We seek to determine why Polish democracy has, in its metamorphosis out of the ruins of Soviet totalitarianism, embraced a kind of compromise with its opponents rather than opt for the purging common to post-revolutionary regimes. This question, important in its own right as an issue in comparative history, is highly germane to contemporary Polish politics, because the former government in Warsaw emphasized a draconian coming to grips with the past as an imperative of national policy. This thesis will attempt to explain the endurance of major figures, institutions, and practices from the communist past, and whether such continuity with the old regime has been good or bad in the long run. Finally, this work will consider how the decommunization and lustration have progressed after 1989, how to deal with the social, political, and institutional consequences that can be anticipated if secret police files are opened, and how Poland compares with Germany and Czechoslovakia, where the matter of dealing with the past was faced and resolved.

Chapter II of this thesis covers Poland's road to democracy from 1976 to 1989 and her struggle against the communist regime, emphasizing the importance of KOR and Solidarity as well as the strikes of 1980 and imposition of martial law in 1981. It discusses the end of the communist regime in Poland and the Roundtable Talks as the final and decisive factor in overthrowing communism in Poland and restoring democracy. Chapter III examines current controversies over Poland's 1989 transition and the heritage of communism, including lustration and decommunization after 1989 and issues in the parliamentary election of 2005. Chapter IV studies post-Nazi Germany and post-

communist Czechoslovakia as countries that had to deal with their past, and cites similarities to and differences from the Polish case. Chapter V summarizes the previous chapters and gives a perspective on the reasonableness of Poland's style of regime change and her dealings with the communist past.

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II. POLAND'S ROAD TO DEMOCRACY FROM 1976 TO 1989

A. POLAND'S STRUGGLE AGAINST THE COMMUNIST REGIME: 1956, 1970, AND 1976

Political dissent in Poland has its roots in the aftermath of World War II, which ended in victory for Poland's allies, but, paradoxically, defeat for Poland itself. After her liberation by the Red Army from German occupation, Poland was swept into the Soviet sphere as a satellite state, with Soviet forces remaining on Polish territory.¹ Communism, unpopular in Poland before the war, now came to power, driven by fiat of a foreign state. Poland's loss of independence, despite the defeat of Germany, and the imposition of a political, social, and economic system alien to her tradition became the roots of dissent in post-war Poland.²

The first noteworthy broad protest against Communist rule began in Poznan in late June 1956, three years after the death of Stalin had encouraged liberalization in various parts of the Soviet empire. The Polish people had been too intimidated under Stalin to voice their discontent; his death, added to the increasingly open dissatisfaction of industrial workers with their deteriorating standard of living, emboldened the people and finally took them to the streets of Poznan.³

The proximate cause of the Poznan uprising—a massive demonstration by workers that erupted into a street battle with many casualties—was a broken agreement between a workers' delegation from “Stalin's Factory” and the minister of machine industry.⁴ The agreement concerned compensation for smaller take-home pay brought on by revised production norms.⁵ What began with an expression of hardship soon became a

¹ Robert Zuzowski, *Political dissent and opposition in Poland: the Workers' Defense Committee “KOR”* (Praeger, Westport, Connecticut, 1992), 18.

² Ibid.

³ Ibid., 24.

⁴ Jadwiga Staniszkis, *Poland's self-limiting revolution*, ed. Jan T. Gross (Princeton University Press, Princeton, New Jersey, 1984), 288.

⁵ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 14.

political manifestation. Workers attacked the police and local party headquarters and freed almost three-hundred prisoners. Seizing munitions from the police arsenal, workers battled police in the streets, rallying under the banner “freedom and bread.”⁶ The regime sent in troops backed formidably by tanks to crush the revolt. Regular battle was enjoined, with barricades, bottles of gasoline, and a few aeroplanes standing against the combined force of the police and army. In this gross overmatch, nearly two hundred were killed, including soldiers and policemen, and hundreds wounded. Several hundred workers were arrested and sentenced to one, five, or six years of prison. (Note that these figures are not accepted as reliable; the exact toll will probably never be made known.⁷)

The regime had shown for the first time that it was willing to use forcible measures against threats to the political order, and the Soviet Union learned that the Poles could handle attempted revolutions without Soviet backup (as was required in Hungary). Unfortunately, June 1956, was not the last time the communist government used military might to secure their rule.

On Sunday, December 13, 1970, eleven days before Christmas, the government, seeming to forget the events of June 1956—and despite the fact that almost half a worker’s income was going to food—announced new, higher prices⁸ for food and consumer goods, risen by an average of 17% for meat, 34% for lard, 33% for fish and 37% for jams and marmalade. Alongside the price increases were price cuts for luxury items that workers had no hope of acquiring. Humiliated, angry, and desperate,⁹ workers, particularly in the north, started expressing their anger in the streets. In Gdansk and Szczecin, thousands of shipyard workers attacked and set fire to regional party and police headquarters and official trade-union buildings. The military and police were authorized

⁶ Robert Zuzowski, *Political dissent and opposition in Poland: the Workers’ Defense Committee “KOR”* (Praeger, Westport, Connecticut, 1992), 24.

⁷ Jadwiga Staniszkis, *Poland’s self-limiting revolution*, ed. Jan T. Gross (Princeton University Press, Princeton, New Jersey, 1984), 289.

⁸ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 15.

⁹ Roman Laba, *The Roots of Solidarity. A Political sociology of Poland’s working-class democratization* (Princeton University Press, Princeton, New Jersey, 1991), 19.

to use weapons in response.¹⁰ Within a few days, strikes and protests fanned through most of the country, but only on the Baltic shore were they brutally heeled by armed police and Polish soldiers. The casualties were significant. In Gdansk, Gdynia, Szczecin, and other towns, official sources claimed forty-five dead and more than 1100 wounded. But the real count was likely much, much higher.¹¹

These events did not bring prices down; instead, the regime changed party and country leadership as a sop to dissatisfied workers.¹² Once again, the apparat showed contempt for the working class and an unshakable belief that power can be maintained forever through force. December 1970 should have warned the communists, however, that “the giant which the socialist regime had itself created, the new working class”¹³ was also the new “force,” and its power should not have been underestimated. This brave tragedy strengthened and united the people in a common purpose. Though the government attempted to suppress the memory of December 1970, it became one of the best remembered, most widely commemorated symbols of resistance to the totalitarians.

The high price of basic foodstuffs, meanwhile, meant ongoing hardship. Prices for most items remained frozen because of the government’s fear of popular reprisal. Nevertheless, in a central, planned economy, price freezes could only bring absurd disproportion between the prices of food and industrial articles, and between the cost of production and price to the consumer. The government could do nothing to stop the process by which disproportionate prices undermine economic growth. While the increase in prices in 1970 was appropriate from an economical point of view, the manner in which it was done and the nature and scope of the hikes infuriated citizens, especially workers.¹⁴

¹⁰ A. Kemp-Welch, *The Birth of Solidarity* (St. Martin’s Press, New York, 1983), 9.

¹¹ Robert Zuzowski, *Political dissent and opposition in Poland: the Workers’ Defense Committee “KOR”* (Praeger, Westport, Connecticut, 1992), 45.

¹² Ibid.

¹³ Timothy Garton Ash, *The Polish Revolution: Solidarity* (Vintage Books. A Division of Random House, New York, 1985), 12.

¹⁴ Jan Jozef Lipski, *KOR: A History of the Worker’s Defense Committee in Poland, 1976-1981* (University of California Press, Berkeley and Los Angeles, California, 1985), 31.

Nor did new leadership that was installed to appease the workers take any lessons from its predecessors.

On June 24, 1976, authorities again drastically raised food prices, by 60% for meat and up to 100% for sugar, with purchase limits for fear of speculation.¹⁵ The reaction of the Polish worker was immediate. Huge street demonstrations and strikes were called. In Ursus, on the outskirts of Warsaw, workers stopped international trains; in Radom, they seized party headquarters and, ignored by officials, set it afire. Strikes shut down Baltic shipyards, the huge textiles center of Lodz, and the industrial town of Plock. Up to 75% of the largest Polish factories are estimated to have closed.¹⁶ To stop the rising tide of strikes, the state withdrew the price increases—but also called out force against the workers. Most savagely, they smashed protests in Radom and Ursus, where several workers were killed and hundreds wounded or arrested.¹⁷ The retributions suffered by striking workers were immense. Probably twenty thousand were fired. Approximately 2,500 citizens were arrested, of whom almost four hundred were found guilty, some receiving sentences as severe as ten years' imprisonment.¹⁸ Others were forced to run a gauntlet of truncheon-wielding police, who called this, with delicate irony, the "path of health."¹⁹ For the working class, job loss or imprisonment led inexorably to destitution.

The people once again felt the disrespect of the state, which, regardless of consequences, had taken economic action without the consent of those most affected. Worse, they used brutality to secure their interests and power. This time, however, persecuted and condemned workers were not without help. Members of the Polish

¹⁵ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 18.

¹⁶ Robert Zuzowski, *Political dissent and opposition in Poland: the Workers' Defense Committee "KOR"* (Praeger, Westport, Connecticut, 1992), 60.

¹⁷ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 18.

¹⁸ Jan Jozef Lipski, *KOR: A History of the Worker's Defense Committee in Poland, 1976-1981* (University of California Press, Berkeley and Los Angeles, California, 1985), 42.

¹⁹ Robert Zuzowski, *Political dissent and opposition in Poland: the Workers' Defense Committee "KOR"* (Praeger, Westport, Connecticut, 1992), 61.

intelligentsia created an organization in their defense: the first post-war, open organ of dissent, which they named the KOR, or “Workers’ Defense Committee” (*Komitet Obrony Robotnikow*).

B. THE WORKERS’ DEFENSE COMMITTEE AND THE STRIKES OF 1980

1. The Worker’s Defense Committee

Before June 1976, there were few dissident organizations in Poland. Dissent usually took violent, spontaneous, and covert forms, like dissidence in other communist countries, where such behavior, if any, was underground and disorganized—or if it was organized, it was never open; and was as a result ineffective. In Poland, organized dissent was kept tightly secret, and dissenting organizations had fallen from public consciousness.²⁰

The formation of the KOR was spurred by the events of June 1976, especially those in Radom and Ursus. Unlike 1970, members of the Polish intelligentsia rose to help and defend persecuted workers. The first support came as legal aid, supplied by Catholic charities and the dissidents themselves,²¹ administered first in Warsaw, then Radom, and gathered from throughout Poland. The state’s reaction was iron fisted. Dissidents were harassed by two-day arrests, house searches, beatings, and surveillance. Nevertheless, few were permanently discouraged. Rather, they conceived of creating an organization, independent of the state, specially for the defense of the worker. The result was the first openly functioning dissident organization in communist Poland.²²

The KOR worker’s defense committee was inaugurated on September 23, 1976 to respond to the increased harassment of the growing ranks of militant industrial workers and to bring relief to the victims of June 1976. In its first official statement, KOR declared its objective as “legal, financial, and medical help to the victims of

²⁰ Robert Zuzowski, *Political dissent and opposition in Poland: the Workers’ Defense Committee “KOR”* (Praeger, Westport, Connecticut, 1992), 51.

²¹ *Ibid.*, 62.

²² *Ibid.*, 63.

repression.”²³ They also demanded amnesty for arrested workers, the rehiring of dismissed strikers, and the punishment of those guilty of abuse towards workers, including criminal acts, torture, and beatings. Because persecuted workers could not count on institutional help, the KOR declared it the task of Polish society to provide for their defense through solidarity and aid.²⁴

Furthermore, KOR’s founders articulated a set of postulates according to which political aims could be achieved in communist Poland. They were convinced that in contemporary Poland, open opposition alone made sense, because only by bold example would others join the opposition. They believed that until Poles overcame their fear of recrimination for political activity, moving from communism to democracy would be impossible.²⁵ One of the best-known founders of KOR, Jacek Kuron, held that all political reforms must be peaceable, because this was only possible means of regime change in the circumstances. People had to awaken to their own potential to order their lives, secure civil rights, access information, and enjoy better living and greater religious freedom. Under pressure from a society the state would be forced to talk politics.

Kuron’s close friend Adam Michnik, also a leading figure in Polish anticommunism, supported gradual reform over a relatively long time through peaceful means. He claimed that revolution was unrealistic and dangerous if change was not also happening in the Soviet Union,²⁶ citing the Czechoslovakian example of 1968, when the possibility of reform was stubbed out by Warsaw Pact forces led by the Red Army. “The way of struggling for reforms—the evolutionary way—is the only way... .”²⁷

Although KOR founders agreed generally on how to engage the regime, two factions emerged, differing mainly on ideology, the strategic range of open opposition, and the pacing of reform activities. Some KOR founders opposed the social-democratic

²³ Robert Zuzowski, *Political dissent and opposition in Poland: the Workers’ Defense Committee “KOR”* (Praeger, Westport, Connecticut, 1992), 65.

²⁴ Ibid., 66.

²⁵ Ibid., 69.

²⁶ Ibid., 72.

²⁷ Ibid.

views of Kuron and Michnik, emphasizing instead their liberal-right roots. These differences divided the KOR in 1977 and reemerged in independent Poland after 1989, when supporters of the liberal-right faction were highly critical of the KOR's legacy and opposition agreements with communists (known as the Roundtable Accords).

By the end of 1976, the KOR was firmly rooted in Polish politics, having survived its risky formation and avoided arrests and major repression. The best explanation for this accomplishment is that the regime simply underestimated the KOR's potential influence on Polish society. Nor did the government want to be seen as persecuting the KOR, because this organization for the workers' protection had enormous support among them. Hostility towards the KOR would only anger Poland's workers and send them back to the streets, a prospect the regime did not relish after so short a time.²⁸

What arose spontaneously in June 1976 as an organization offering various helps to persecuted workers became a group that, more than any other entity, changed the conduct of opposition in communist-ruled Poland. The KOR gradually transformed dissent from hidden and spontaneous to open and organized. To the KOR alone goes credit for bridging the social chasm between workers and the intelligentsia imposed by communist ideology and the state's monopoly on information. The KOR united a tremendous number of workers and intellectuals in new hope of overthrowing communism.²⁹

2. The Strikes of 1980

At the beginning of 1980, some party members were urging economic reforms in the face of drastically worsening conditions. In April 1980, the government announced essential reforms in planning methods, economic management, and state administration.

²⁸ Robert Zuzowski, *Political dissent and opposition in Poland: the Workers' Defense Committee "KOR"* (Praeger, Westport, Connecticut, 1992), 76.

²⁹ *Ibid.*, 110.

The need to raise food prices gradually over several years was also mentioned.³⁰ However, this time, the regime did not intend to provide notification of price hikes, believing they might go unnoticed.

On July 1, 1980, the government nearly doubled the price of meat. Workers reacted immediately with strikes all over Poland. In appeasement, local authorities were allowed to offset high prices by increasing pay, with the aim of defusing strikes locally and preventing broader repercussions. Nevertheless, this plan failed and even encouraged more striking, because only strikers got higher wages.³¹ By mid-July, a large portion of the country was hamstrung, and blocked railways between the Polish city of Lublin and Russia alarmed both the party and the Soviets.³² Rescindment of the price hikes was by no means the only demand of striking workers. They also insisted on family allowances like the police and military had and new elections for trade unions.³³ Most strikes were settled on the basis of variable pay increases, which were negotiated in Lublin between government representatives and workers and elsewhere through local authorities. At the same time, the KOR was warning that inflation would soon consume salary increases and workers should not concentrate on that issue alone, but also on defending their constitutional right to free associations such as trade unions.³⁴

Those strikes, which were an important influence on the Gdansk strikes in August, showed the party's willingness to talk with worker representatives, omitting entirely a bureaucracy of party-controlled trade unions to achieve quick settlement. Moreover, it proved the responsibility and strict discipline of workers, who avoided street demonstration and, except for an incident in Lublin, unblocked the rail lines so as not to provoke the Soviets.³⁵ What is more, the July strikes contributed to the establishment of

³⁰ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 23.

³¹ Jadwiga Staniszkis, *Poland's self-limiting revolution*, ed. Jan T. Gross (Princeton University Press, Princeton, New Jersey, 1984), 3.

³² Ibid.

³³ Ibid.

³⁴ Ibid., 4.

³⁵ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 26.

an information network. The main contributor was the KOR, which set up a central information system to collect news about the strikes and pass it to Western correspondents in Warsaw, who in turn conveyed the information to Western media, which broadcast it to Poland. As a result, the people could get detailed information on what was happening in their country when the Polish censor-controlled media did not even mention the upheaval in current events.³⁶

On August 14, 1980, the workers of the Lenin Shipyard in Gdansk began to strike, which to many observers was crucial, due to the fact that shipyard workers were more respected among the Polish working class because of their sacrifice and casualties in 1970. This strike provoked others in Gdynia, Elblag, Szczecin, Lodz, Wroclaw and Warsaw. KOR leader Jacek Kuron called it a sensational solidarity strike with political character.³⁷ The workers' first demands were reinstatement of two dismissed shipyard workers—Anna Walentynowicz and Lech Walesa—and wage increases, normal pay for workers on strike, and approval to build a monument commemorating the victims of December 1970. The negotiations between shipyard management and workers were almost finished when the workers withdrew because not all their demands were met. They saw that if they did not negotiate and succeed in satisfying everyone's grievances, they would lose everything by bargaining alone. They realized that the key to success for all workers was in solidarity and unity, and to keep striking was giving them an opportunity to win more in terms of democracy, not only economic demands such a free trade unions and self-government.³⁸

As a result, the MKS Inter-factory Strike Committee was established and formulated a list of demands. Among them were two concerning abolition of censorship and free elections, which were removed from the list before negotiations with party

³⁶ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 26.

³⁷ *Ibid.*, 27.

³⁸ *Ibid.*, 29.

representatives to avoid echoes of the Czechoslovakian reform movement.³⁹ Among the twenty-one demands presented to the party were:

1. Acceptance of free trade unions, independent of the party
2. The right to strike and the personal security of strikers and their supporters
3. Freedoms of speech, press, and publication and access to the mass media for all religious denominations
4. Restoration of rights to persons dismissed in 1970 and 1976 and to students expelled from schools for their beliefs, and the release of three named political prisoners
5. Publication by the media of information about the Inter-factory Strike Committee and its demands
6. Informing of the public about the economic crisis and inducing public discussion of the reform program
7. Payment to strikers for all strike days at vacation rate
8. An increase in basic wages by about \$600 to compensate for price increases
9. Full supplies of food for the domestic market and export of surplus only; abolition of “commercial” prices and sales for foreign currency in special shops
10. Selection of management personnel on the basis of qualification, not party affiliation, and abolition of the privileges of the citizens, militia, security service, and party apparatchiks
11. Free Saturdays⁴⁰

³⁹ A. Kemp-Welch, *The Birth of Solidarity* (St. Martin’s Press, New York, 1983), 23.

⁴⁰ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 29.

After several days of negotiations, on August 31, 1980, an agreement between the MKS and the government was signed. The party substantially met the workers' demands, but not all, including, for instance, the right to form independent labor unions and to strike, loosening somewhat the censorship of media and agreeing to some economic changes. However, the MKS also made concessions. It had to accept the leading role of the Communist Party in Poland and declare that new unions would respect the principles of the Polish constitution, would not play the role of political party, and would not question Polish international alliances. Furthermore, the party would not agree to lower the retirement age.⁴¹

Not only did workers achieve victories, but other groups won significant gains. The Roman Catholic Church got access to Polish radio to broadcast Sunday Mass, journalists got the chance to inform freely about society and the economy, retired persons had their pensions increased, young couples could get their dream apartments because of faster construction, and everybody hoped for better health services.⁴²

The strikes of 1980 and subsequent agreement between the MZK and the Communist Party proved that the workers could effect a nonviolent, disciplined approach and move with unity towards common objectives. It was also the first effective alliance between workers and the intelligentsia. Moreover, the Inter-factory Strike Committee set an example as an alternative to the party. The inclusion in the workers' demands of economic, social, and political issues began a broader public debate on party policies and showed that the party could no longer claim to be the only representative of the working class. Party trade unions lost their monopoly and had to compete for workers to join.⁴³ Furthermore, it was all achieved without force, in contrast to much of Poland's tragic history, where changes were sought through revolution, mainly unsuccessful. The striking workers acted on the assumption that violence would bring nothing but violent response, and even possibly cause the Soviets to intervene. In 1980, they still remembered the

⁴¹ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 34.

⁴² *Ibid.*, 36.

⁴³ *Ibid.*, 37.

bloodshed of 1970. They took a course of action completely different, and the result, the Gdansk Agreement, was the most spectacular peaceful achievement in a communist country.⁴⁴

C. SOLIDARITY AND MARTIAL LAW IN 1981

Two weeks after the agreement, workers from almost forty independent unions representing all participants in the July and August strikes met in Gdansk. They were informed that over three million people had joined or expressed a wish to join the NSZZ independent, self-governing trade union, which adopted the name, "Solidarity." The Gdansk shipyard's strike leader, Lech Walesa was elected chairman.⁴⁵ A few days later, Walesa traveled to Warsaw to register the union. After a month's delay, the Warsaw provincial court registered Solidarity, but with corrections, inserting the formulaic recognition of the leading role of the party and declaration not to threaten international alliances. Although the Supreme Court removed these controversial formulas several days later from the body of the statute, they were put in an appendix, which the union accepted as the price of compromise. This event foreshadowed how difficult relations with the communist regime would be and marked the first sign that the party would try to drift away from the agreement of August 31.⁴⁶

Meanwhile, as local leaders of Solidarity struggled to set up completely new trade unions, authorities in many regions resisted their intentions, using all possible measures to undermine the union's attempts at organization. Solidarity's only way of defending themselves was to threaten strikes, which they had to use to get anything from the old party-dependent unions.⁴⁷

Though after the Gdansk agreement Solidarity tried to stay out of politics, concentrating only on trade-union issues and the pursuit of a more democratic society (not country) within the existing political framework, it became clear that this tactic could

⁴⁴ A. Kemp-Welch, *The Birth of Solidarity* (St. Martin's Press, New York, 1983), 207.

⁴⁵ Timothy Garton Ash, *The Polish Revolution: Solidarity* (Vintage Books. A Division of Random House, New York, 1985), 75.

⁴⁶ *Ibid.*, 84.

⁴⁷ *Ibid.*, 76.

only fail. Solidarity started pushing the regime for political solutions that required state transformation, having realized that their nonpolitical strategy towards democratization was inappropriate: only new political agreement with significant change to the existing system of governance could succeed.⁴⁸ Although Solidarity had significant political power through its ability to mobilize millions of strikers, it had no real influence on economic decisions, and thus lacked economic power. The Gdansk agreement was not followed by broad political change nor by a social revolution against the foundations of a centrally planned economy. It allowed the regime to keep power without significant concession. The state rulers could make promises they did not intend to keep because they knew that the economic burden of strikes was shouldered by the workers, not their keepers. Conspicuously, Solidarity lacked a doctrine as to how to solve economic problems and take greater responsibility for the course of events in the Polish economy.⁴⁹

At Solidarity's inception, the party's attitude was ambiguous. Some members warned that the real intention of Solidarity was open confrontation with the party and its rule. On the other hand, many of Solidarity's actions were obviously intended only to enforce Gdansk and other agreements.⁵⁰ Nevertheless, when it became clear to the party apparat that Solidarity had embraced political as well as social tactics, the party began to see a real threat to its interests and a dangerous opponent.

As the government failed to implement Gdansk and other agreements, and Solidarity consequently intensified pressure via strikes on various issues, some party leaders and activists from other countries grew convinced which road to take.⁵¹ Violence

⁴⁸ David Ost, *Solidarity and the Politics of Anti-Politics. Opposition and Reform in Poland since 1968* (Temple University Press, Philadelphia, 1990), 80.

⁴⁹ Jadwiga Staniszkis, *Poland's self-limiting revolution*, ed. Jan T. Gross (Princeton University Press, Princeton, New Jersey, 1984), 22.

⁵⁰ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 63.

⁵¹ *Ibid.*, 113.

against Solidarity escalated, especially after a meeting of Polish and Soviet leaders in Moscow in which the Poles were given a veiled ultimatum to solve their national tensions by any available means.⁵²

The first and best-known time that violence was used against Solidarity happened in Bydgoszcz on March 19, 1981. Private farmers, joined by a regional Solidarity leader, occupied the local office of the party's satellite ally, the "Peasant Party," to enforce the full recognition of "Rural Solidarity." After a couple of hours of slow negotiation at a council meeting, the leaders were thrown from the building by two-hundred uniformed policemen. For Solidarity, this was nothing more than provocation from a party itching for confrontation.⁵³ After Bydgoszcz, the relationship between the party and Solidarity deteriorated, in a climate of growing official hostility, deliberate unresponsiveness to the Gdansk agreement, and provocations. Food shortages since July 1981 and sharp price increases in October launched another wave of strikes in Poland, which were considered by the party and army command as justification to use any means against Solidarity.⁵⁴ Moreover, in answer to Soviet edginess about the Polish situation and, as they perceived it, the party's retreats before "counterrevolutionary forces," the new party leader and prime minister, General Wojciech Jaruzelski, assured the Soviets that the army was prepared to take military action. This guarantee persuaded the Soviets to refrain from sending in the combined East German, Czechoslovakian, and Soviet armies.⁵⁵

During the closing months of 1981, the party and Solidarity were far from reaching any compromise that would satisfy either. On both sides, even moderates lost hope in the chance of acceptable compromise.⁵⁶ At the beginning of December 1981, an occupational strike at the Warsaw firefighters' academy was harshly suppressed by

⁵² Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 120.

⁵³ Timothy Garton Ash, *The Polish Revolution: Solidarity* (Vintage Books. A Division of Random House, New York, 1985), 152.

⁵⁴ Lawrence Goodwyn, *Breaking the barrier: the rise of Solidarity in Poland* (Oxford University Press, New York, Oxford, 1991), 261.

⁵⁵ Ibid.

⁵⁶ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 253.

police, with striking cadets expelled from the academy. “It was a scary, efficient performance, and one which undoubtedly should have been taken as a warning.”⁵⁷ However, Solidarity leaders continued intensifying their responsive, radical tactic, and on December 11, while the union’s national commission convened in Gdansk, they send word to the party that they would launch a general strike if the government took steps toward emergency powers (for instance, banning strikes).⁵⁸

On the night of December 12–13, 1981, the Council of State introduced martial law in Poland. General Jaruzelski established the Military Council of National Salvation, consisting of twenty-one militaries. Invoking martial law was supposed to be the privilege of the parliament, but Jaruzelski did not want to waste time and lose the element of surprise. Military and police forces arrested most Solidarity leaders in Gdansk, thousands of local leaders and opposition activists, and student- and farmers’ unionists. Martial law also

- cut national and international telephone communications
- imposed a curfew
- banned travel between cities
- forbade meetings of organizations, associations, and societies
- suspended many organizations, including trade unions
- closed universities and schools
- shut down most newspapers and magazines
- militarized government radio and television
- militarized certain industrial facilities
- appropriated Solidarity offices and blocked access

⁵⁷ Lawrence Weschler, *The passion of Poland, from Solidarity through the state of war* (Pantheon Books, New York, 1984), 86.

⁵⁸ Ibid.

- penalized the violation of these regulations.⁵⁹

In his address to the Polish nation, General Jaruzelski justified martial law for three main reasons:

- Political—Solidarity extremists were attempting to destroy the legal socialist order, and bloodshed loomed as Solidarity called for a general strike
- Economic—state security was threatened by political wrestling in the workplace and growing industrial anarchy. Calling a state of war saved the economy from destruction and opened the possibility of financial stabilization and economic reform
- International—Poland's position in the international and socialist community was under threat.⁶⁰

The declared state of war allowed the party to protect its state leadership and preserve the communist system. It silenced the political and economic views of Solidarity, which were deemed intolerable and unacceptable. General Jaruzelski had gained extraordinary powers and measures and he wielded them remorselessly to defend Polish socialism.⁶¹

Nevertheless, there was scattered resistance to martial law, mainly as strikes in large factories; but they were immediately broken by heavily armored police and army, who surrounded factories one by one and crushed their gates with tanks and armored cars. Although all such reprisals were horrifying, the most infamous suppression occurred at the Wujek mine in Katowice, where nine miners were killed and tens of others wounded during protests and strikes that lasted about a week after the imposition of martial law. In

⁵⁹ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 256.

⁶⁰ George Sanford, *Military rule in Poland. The rebuilding of Communist Power, 1981-1983* (St. Martin's Press, New York, 1986), 117.

⁶¹ Nicholas G. Andrews, *Poland 1980-81. Solidarity versus the Party* (National Defense University Press, Fort Lesley J. McNair, Washington, DC, 1985), 256.

the aftermath, active resistance to the military regime went passive; but neither active nor passive resistance softened any aspect of state policy.⁶²

The state of war introduced in December 1981 was suspended a year later and lifted in July 1983. Its short-term aims had been achieved. The independent social forces that had arisen in 1980 in hopes of reform had been destroyed, and political contestation and social unrest, quashed. What is more, desirable psychological trauma had been induced on the Polish people as all opposition was repressed.

However, the regime's long-term objectives, such as halting economic collapse by rebuilding the communist system on a new ideological and political framework—with new apparatchiks of the party's choosing—failed.⁶³ In the following years, despite their efforts, the communists failed to make any significant improvements to the economy or public life generally. Although General Jaruzelski succeeded partially in the arena of politics by building confidence in the political efficacy of martial law and its ability to safeguard the status quo, nevertheless, he failed utterly to recover the devastated economy or improve the standard of living. This incompetency led to a round of strikes in the spring and summer of 1988, barely eight years into martial law, which ended in the party's offering to talk with Lech Walesa on the legalization of Solidarity, and Solidarity's subsequent participation in tackling the national crisis.⁶⁴

D. THE ROUNDTABLE TALKS AND THE END OF THE COMMUNIST REGIME

In 1988, the spark that ignited the overthrow of the communist regime was, again, an increase in food prices—up to 40%. As before, this precipitated massive protests and strikes. What is noteworthy, however, is that most of the strikes were not organized by Solidarity, but by a younger generation of workers without the experience of physical defeat under martial law, demanding real changes in the life of Poland. This meant that

⁶² Kevin Devlin, Bruce D. Porter, Jan B. de Weydenthal, *The Polish Drama: 1980-1982* (Lexington Books, D. C. Heath and Company, Lexington, Massachusetts, Toronto, 1983), 241.

⁶³ George Sanford, *Military rule in Poland. The rebuilding of Communist Power, 1981-1983* (St. Martin's Press, New York, 1986), 2.

⁶⁴ James F. Brown, *Poland since Martial Law* (Rand Corp., Santa Monica, CA, 1988), viii.

not only Solidarity (which was still supported by the masses), but also independent representatives of society needed to be heard by the communists. In its own way, Poland was transitioning into a pluralist society.⁶⁵ Solidarity, even divided and unable to attract young and radical workers, still remained the symbol of independent society, with Lech Walesa as its leader. In August 1988, as a new wave of strikes crossed the country, the regime had to admit that the opposition was an important element of the political scene and negotiation would be necessary to solve the country's problems. At the end of the month, the communist minister of the interior, Czeslaw Kiszczak, publicly offered, on Jaruzelski's approval, roundtable discussions with Solidarity—without conditions, and not only about the economy, but political issues.⁶⁶ Although both sides knew that neither had credible solutions to the burning problems of an almost-bankrupt nation, they needed to work together to save the Polish economy, which would not be accomplished without high sacrifice by society.⁶⁷

On February 6, 1989 fifty-five delegates, twenty nine from the party apparat and twenty six from the opposition—plus three observers from the Catholic Church—met officially at the roundtable, after a couple of informal meetings between representatives in the months before. Actual negotiations took place in ad-hoc groups in which roundtable participants were supported by experts in the issues discussed.⁶⁸ “The symbolism of a roundtable...was that it minimized the confrontational aspects of the negotiations and suggested the community of interests of all Poles.”⁶⁹

There were three main areas of negotiation and several smaller subtables and working groups to discuss particular problems. The major tables discussed:

⁶⁵ Gale Stokes, *The Walls Came Tumbling Down. The Collapse of Communism in Eastern Europe* (Oxford University Press, New York, Oxford, 1993), 121.

⁶⁶ Ibid., 122.

⁶⁷ Peter Cipkowski, *Revolution in Eastern Europe: understanding the collapse of communism in Poland, Hungary, East Germany, Czechoslovakia, Romania and the Soviet Union* (John Wiley & Sons, Inc., New York, 1991), 22.

⁶⁸ Wiktor Osiatynski, “The Roundtable Talks in Poland” in *The roundtable talks and the breakdown of communism*, ed. Jon Elster (The University of Chicago Press, Chicago and London, 1996), 30.

⁶⁹ Gale Stokes, *The Walls Came Tumbling Down. The Collapse of Communism in Eastern Europe* (Oxford University Press, New York, Oxford, 1993), 125.

- union pluralism and legalization of the Solidarity trade union
- political reforms, to agree on conditions under which Solidarity could participate in elections
- social, economic policy, and systemic reforms to reach agreement on Solidarity's economic proposals⁷⁰

At the tables of economic policy and political reforms, subtables were established on the following topics:

- legal and judicial reform
- media policy
- local government
- associations
- education, research, and development
- the problems of the younger generation
- housing policy
- agriculture and rural social policy
- mining
- health care
- the environment⁷¹

Solidarity perceived the government's offer as a new social contract, whereby union legalization and minority representation in Parliament would bring co-responsibility for a new economic program—as well as for any unpleasant fallout. In

⁷⁰ Wiktor Osiatynski, "The Roundtable Talks in Poland" in *The roundtable talks and the breakdown of communism*, ed. Jon Elster (The University of Chicago Press, Chicago and London, 1996), 31.

⁷¹ Ibid.

return, partially free elections and the creation of a constitutional presidency would allow the party to retain overall control of the political process.⁷²

On April 5, 1989, two months after official negotiations began, Solidarity and the government met again at the roundtable to accept their agreement. The most significant achievements of the Roundtable Talks were:

- restoration of Solidarity and the promise of legalization for an independent students' union
- elections on June 4, 1989, for a two-house parliament, in which free competition would be permitted for 35% of the 460 seats in the existing lower house, the Sejm
- restoration of the upper house (the senate) disbanded after WWII, with a hundred members chosen in completely free elections. The upper house would have veto over the lower house
- establishment of the office of "president of the republic," elected by the two houses of Parliament for a six-year term, with broad powers to dissolve Parliament and veto laws passed by the lower house (overturnable by two-thirds vote)
- changes in the structure of the economy⁷³

It has been claimed that the last point was the least successful—quite ironically, because the economy was at the center of the original anti-crisis pact proposed by Solidarity in 1988. "The main reason was that at this field the most tangible interests of state, party and economic bureaucracies were at stake. These interests were not

⁷² Gale Stokes, *The Walls Came Tumbling Down. The Collapse of Communism in Eastern Europe* (Oxford University Press, New York, Oxford, 1993), 125.

⁷³ Peter Cipkowski, *Revolution in Eastern Europe: understanding the collapse of communism in Poland, Hungary, East Germany, Czechoslovakia, Romania and the Soviet Union* (John Wiley & Sons, Inc., New York, 1991), 24.

compromised by the government. As a result, even a soft statement about the desirability of a market economy was unacceptable to the government.”⁷⁴

The Roundtable Talks and subsequent events in Poland changed the history of Poland and Eastern Europe. On elections held June 4, 1989, Solidarity was overwhelmingly victorious, winning 160 of the contested seats in the lower house and ninety-nine of the hundred seats in the upper house. The election exposed the inability of the Communist Party to command the support of the people—it was, in fact, an utter rejection of communism.⁷⁵ Two months later, after the communists, led by martial-law author Czeslaw Kiszczak, had failed to form a government, Solidarity and two former communist-satellite parties created a majority coalition and proposed a former dissident, Tadeusz Mazowiecki, as prime minister. Mazowiecki was elected chief of government on August 24, 1989, the first non-communist to hold the position since 1948.⁷⁶ The next year brought a raft of political and economical reforms that finally ended more than forty years of communist rule. At the end of 1990, Poland elected the former dissident and Solidarity leader Lech Walesa as president; the Communist Party was dissolved; and free parliamentary elections in the new year finalized the transition from totalitarianism to democracy. And as Lech Walesa noted, that transition was an unbloody, nonviolent, evolutionary revolution, unlike the former independence bids of Polish history, which were almost all characterized by mortal conflict.

The Roundtable Talks were criticized after 1989 for Solidarity’s compromise with the regime, though compromise had allowed activists to remain on the political scene and engage in public life; but undeniably the talks paved the way to the first partially free elections in Eastern Europe in fifty years. They allowed the peaceful rejection of a system

⁷⁴ Wiktor Osiatynski, “The Roundtable Talks in Poland” in *The roundtable talks and the breakdown of communism*, ed. Jon Elster (The University of Chicago Press, Chicago and London, 1996), 58.

⁷⁵ Peter Cipkowski, *Revolution in Eastern Europe: understanding the collapse of communism in Poland, Hungary, East Germany, Czechoslovakia, Romania and the Soviet Union* (John Wiley & Sons, Inc., New York, 1991), 29.

⁷⁶ *Ibid.*, 31.

that exercised ruthless dominance for almost fifty years. “Thus the roundtable negotiations played a crucial role in launching the ongoing process of change in Eastern Europe.”⁷⁷

⁷⁷ Wiktor Osiatynski, “The Roundtable Talks in Poland” in *The roundtable talks and the breakdown of communism*, ed. Jon Elster (The University of Chicago Press, Chicago and London, 1996), 21.

III. CURRENT CONTROVERSIES OVER THE POLAND'S TRANSITION IN 1989 AND HERITAGE OF COMMUNISM

A. CONTROVERSIES OVER ACCORDS WITH COMMUNISTS AFTER 1989

The Polish transition to democracy and the Roundtable Agreement between the opposition and the government played a crucial role in starting a similar process of change throughout Eastern Europe. However, events after the talks “obscured the negotiations, quickly sweeping away recognition of their importance.”⁷⁸ The contract between the communist government and the opposition was severely criticized when the democratic opposition took power. The split within the Polish independence movement Solidarity, power struggles among the victors, and growing economic problems brought further questioning.⁷⁹ This split can be seen today among the roundtable talks’ critics and supporters. For the radical-right wing of Solidarity, among them Jaroslaw and Lech Kaczynski—who took power following the parliamentary and presidential elections of 2005—the agreement is suspect, a secret deal between parts of the new post-communist government. The Kaczynski brothers and their followers denigrate the achievements of the roundtable talks, while admitting they were the only possible way of getting rid of communist power in Poland; the claim is that subsequent compromises, based on interpretations of the original agreement, have been a chain of mistakes by the opposition camp.⁸⁰ The negotiated character of the revolution in 1989, which blunted the need for retribution, came in for condemnation from the right wing, who blamed the policy for having allowed former communists to gain power again barely three years after the roundtable talks of 1993.⁸¹

⁷⁸ Wiktor Osiatynski, “The Roundtable Talks in Poland” in *The roundtable talks and the breakdown of communism*, ed. Jon Elster (The University of Chicago Press, Chicago and London, 1996), 21.

⁷⁹ Ibid.

⁸⁰ Lech Kaczynski - President of the IV Republic of Poland’s, *Monika Olejnik rozmawia z Lechem Kaczyńskim - prezydentem Warszawy*, <http://www.lechkaczynski.pl/article.php?id=4> (accessed August 27, 2007).

⁸¹ Andrew A. Michta, *Democratic consolidation in Poland* in *The consolidation of democracy in East-Central Europe*, ed. Karen Dawisha and Bruce Parrot (Cambridge University Press, Cambridge, 1997), 76.

Nevertheless, Poland's democratic opposition could not have taken power directly before 1988, since the communists were still too strong, at least on the surface. It took almost ten years to finally defeat the communist regime and change the system. With no sudden break with the past, the transition occurred in peaceful, carefully negotiated increments, "with Solidarity leadership well aware of its pioneering role in Eastern Europe and of the danger inherent therein. The experience of the 1981 martial law and the continued threat of direct Soviet intervention...were in the minds of the Solidarity leadership in 1989, while the disintegration of the country's economy was the most urgent concern."⁸² Because the system was weakening, the official political elite started issuing signals that the opposition could get access to power, which meant (in effect) sharing responsibility for the nation's deterioration. However, "the social pressure, especially strikes and the opposition refusal to accept the co-optation strategy opened the way to the roundtable talks."⁸³

The first non-communist prime minister in Poland, Tadeusz Mazowiecki, has claimed that the peaceful transition to democracy, without bloodshed, was the most significant achievement of Poland, the beginning of great changes in Poland and great changes in Europe, and that no other chance to win against the communists existed. This fact cannot be neglected—and should not be taken to imply that there were secret deals with communists. Though nothing was done perfectly in the events after 1989, the necessity for continuing work in no way devalues the significant gains of the roundtable talks.⁸⁴

Barely seven years after the imposition of martial law, the alternative of confrontation was unrealistic not only for Solidarity, but also for communist side. "Over fifteen years the authorities had done everything in their power, ..., to eliminate opposition; there was nothing left to be tried to reach that objective. ... The politics of

⁸² Andrew A. Michta, *Democratic consolidation in Poland* in *The consolidation of democracy in East-Central Europe*, ed. Karen Dawisha and Bruce Parrot (Cambridge University Press, Cambridge, 1997), 77.

⁸³ Włodzimierz Wesolowski, "Transition from totalitarianism to democracy" in *Eastern Europe: Transformation and Revolution, 1945-1991*, ed. Lyman H. Legters (D. C. Heath and Company, Lexington, 1992), 301.

⁸⁴ Partia Demokratyczna demokracyi.pl, *Okrągłego Stołu nie da się obalić*. TVN 24, <http://demokracyi.pl/index.php?do=prasa&navi=0001,0012&id=267> (accessed September 2, 2007).

confrontation pursued by either side could produce no outright winner.⁸⁵ The form of national reconciliation first discussed in 1981 prevailed at the end. “At that time two variants were considered: a tripartite agreement among party, Church and Solidarity and a more contrived coalition consisting of the three governing parties, communist and Solidarity trade unions, the Church and Catholic lay groups represented in the Sejm.”⁸⁶ Because both sides rejected those variants, martial law was imposed in December 13, 1981. In 1988, however, the apparat and Solidarity returned to the first of these formulas as an acceptable way to solve political and economic problems of Poland.

The classic and tragic scenario of the French Revolution was not followed by Poland, whose course has been called “self-limiting revolution or evolutionary revolution”.⁸⁷ The non-revolutionary character of Poland’s transformation was successful because “the Solidarity leadership had learned a bitter lesson about the limits to its power. In December 1981, they learned that symbolic and emotional support cannot prevail over pure might. However, the durability of social resistance was an important factor that pressed the government toward recognition of the opposition as a real force in society and as a credible partner in negotiations.”⁸⁸ What is more, in 1988 the reemerging but weakened Solidarity had to accept compromise since the possibility of a peaceful continuation of the “self-limiting revolution was the only real one. Only negotiations could finish more than 40 years of totalitarianism in Poland.”⁸⁹ In 1976, Jacek Kuron, one of the cofounders of KOR, urged opposition to violence in the struggle for regime change in his famous statement “instead of burning the party committees, build your own committees,”⁹⁰ pointing the way Polish opposition should deal with the regime.

⁸⁵ Raymond Taras, *Consolidating Democracy in Poland* (Westview Press, Colorado, 1995), 129.

⁸⁶ Ibid.

⁸⁷ Ivan T. Berend, *Central and Eastern Europe, 1944-1993: Detour from the periphery to the periphery* (Cambridge University Press, University of California, 1996), 254.

⁸⁸ Ibid., 257.

⁸⁹ Ibid., 265.

⁹⁰ Adam Michnik, *Reflections on the Collapse of Communism*, *Journal of Democracy*, November 2000, http://muse.jhu.edu.libproxy.nps.edu/journals/journal_of_democracy/v011/11.1michnik.html (accessed March 14, 2008).

Some have complained that the roundtable talks in 1989 were a mistake in that they only revived the communists. The assertion is made that communism would have collapsed sooner or later without the agreements, which only allowed them to remain in politics. However, in 1989 “neither the American nor European politicians, nor the sociologists, nor the Sovietologists, nor even Pope John Paul II—nobody in the world had such confidence at the time.”⁹¹ “The ‘roundtable’ compromise created a political culture in which there is a place for every citizen and a culture of debate and cooperation rather than rancor and revenge.”⁹²

Others have criticized the roundtable talks as “a national betrayal,” a secret conspiracy between the system and oppositionist elites—that is, the roundtable talks did not have a societal mandate. Any political alliances between Solidarity and the communist government are seen in this view as nothing but a plot aimed at retaining the influence of communist elites. This theory insists that the only acceptable alliances with communists were strictly economic, without any political connotations or background and without assuming any shared responsibility for the whole Polish mess.⁹³ Moreover, concession was unnecessary; the regime was losing its legitimacy and power, but the opposition granted them the chance to retain significant authority and control over many aspects of contemporary Poland. The Roundtable Agreements allowed former communists with business connections to make fortunes, whereas the rest of society, including those of undeniable merit in defeating communism, had to bear the burden of transformation, paying high price of devotions and recantations. The agreement created a Poland in which egoism, greed, and connections with the former secret police allowed crooks to get ahead at the expense of everyday, honest people. Moreover, the lack of decommunization after 1989 is held to have created most of Poland’s current problems.

⁹¹ Adam Michnik, *Reflections on the Collapse of Communism*, Journal of Democracy, November 2000, http://muse.jhu.edu.libproxy.nps.edu/journals/journal_of_democracy/v011/11.1michnik.html (accessed March 14, 2008).

⁹² Ibid.

⁹³ Zbigniew Romaszewski, *Nie godzę się na niesprawiedliwość*, Dziennik Polski, 22 września 2006, Oficjalna strona senatora Zbigniewa Romaszewskiego, http://www.romaszewski.pl/podstrony/publikacje/2006_nie_godze_sie_na_niesprawiedliwosc.html (accessed March 10, 2008).

The non-pursuit of communists is seen as a remnant of the Roundtable Agreements and an act of malfeasance that enabled corrupt systems based on the old communist secret services and post-communist circles to flourish. It would have been desirable, critics say, were those who supported totalitarianism barred from important positions in the democratic state of Poland. Instead, people who were persecuted during communism and left with meager retirements saw their persecutors in the secret police lead comfortable lives on benefits allowing much higher standards.⁹⁴

Another criticism from the right is that Solidarity and its moderate representatives helped communist nomenklatura maintain their interests and spheres of influence. They excluded radical dissidents, called “extremists,” from negotiations and regime transformation. Most anti-roundtable critics point out that Tadeusz Mazowiecki’s government, following the agreement, made the process of transformation too slow and ineffective. “Thick line,” fear form the completely free elections, negligence in the removing of Soviet troops from Polish territory, protection of communist party influences, and maintaining public servants and secret police officers in their old positions, as well as secret acceptance of the process of destroying party documents and secret police files.⁹⁵ Such critics have demanded a total opening of secret police files, decommunization, and prosecution for crimes committed against the people under communism.

Despite the controversies in recent years over the events of 1989 and accords with the communists, there has been a countervailing tendency in Poland to judge that the agreements between the government and opposition were an expression of maturity. The decisions made were crucial to regime transformation and democratic reform.⁹⁶ The Polish model set an example followed by other countries, such as Czechoslovakia, with

⁹⁴ Zbigniew Romaszewski, *Nie godzę się na niesprawiedliwość*, Dziennik Polski, 22 września 2006, Oficjalna strona senatora Zbigniewa Romaszewskiego, http://www.romaszewski.pl/podstrony/publikacje/2006_nie_godze_sie_na_niesprawiedliwosc.html (accessed March 10, 2008).

⁹⁵ Ibid.

⁹⁶ Helena Sulik, *Odzyskiwanie Ojczyzny 1945-1989*, <http://www.bialystok.edu.pl/cen/archiwum/aspekty/asp13/hs.htm>, (accessed March 11, 2008).

its velvet revolution.⁹⁷ Polish “evolutionary revolution” brought significant and positive changes to Poland: for instance, a strong presidency, a senate, and a great deal of legislation inspired by Solidarity’s roundtable demands. Moreover, “the mechanism of solving social conflicts by negotiations” and the “spirit of the round table” continue to be dearly held values and guideposts for political behaviors.”⁹⁸ The roundtable talks may be called the symbol of the creation of the Third Republic of Poland and of achieving social freedom and state sovereignty.⁹⁹

B. THE HERITAGE OF COMMUNISM: LUSTRATION AND DECOMMUNIZATION IN POLAND AFTER 1989

1. Lustration

Lustration refers to the screening (or vetting) of candidates for and holders of important public offices to “eliminate” (usually bar for a certain period) former secret-police collaborators.¹⁰⁰ This issue arrived with democratic breakthrough in 1989 and still raises strong emotions in politics and society. This question is not unique to Poland and, as in all newly emerging democracies that have had to deal with the problem, is still a matter of debate. Systematically vetting public officials for links with the communist-era security services is controversial in many post-communist states.¹⁰¹

The first post-communist Polish government was unwilling to pursue lustration. The policy of “thick line,” introduced by the first non-communist prime minister, Tadeusz Mazowiecki, rejected the course of action in the name of reconciliation and

⁹⁷ Helena Sulik, *Odzyskiwanie Ojczyzny 1945-1989*, <http://www.bialystok.edu.pl/cen/archiwum/aspekty/asp13/hs.htm>, (accessed March 11, 2008).

⁹⁸ Wiktor Osiatynski, “The Roundtable Talks in Poland” in *The roundtable talks and the breakdown of communism*, ed. Jon Elster (The University of Chicago Press, Chicago and London, 1996), 22.

⁹⁹ Helena Sulik, *Odzyskiwanie Ojczyzny 1945-1989*, <http://www.bialystok.edu.pl/cen/archiwum/aspekty/asp13/hs.htm>, (accessed March 11, 2008).

¹⁰⁰ Maria Los, *Lustration and Truth Claims: Unfinished Revolutions in Central Europe*, *Law & Social Inquiry*, Vol. 20, No. 1. (Winter, 1995), <http://links.jstor.org/sici?sici=0897-6546%28199524%2920%3A1%3C117%3ALATCUR%3E2.0.CO%3B2-U> (accessed March 17, 2008).

¹⁰¹ Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, *Europe-Asia Studies*, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

transformation. The true meaning of these words is still contested, as Mazowiecki claimed he meant to symbolically divide the old and new Poland and separate his government's responsibility from that of the old regime.

However, the speech was widely interpreted as excluding the former communist establishment from punishment for its mistakes. The Mazowiecki government's policy certainly did not include lustration in the sense of weeding out and banning from public office former communist officials, secret service informers and other collaborators with the communist system of power. Rather than applying collective guilt for former party or secret service activity, the new government pledged itself to de-communise through dismantling the communist power monopoly and assessing supporters of the previous regime on the basis of their actual performance and loyalty toward the new government.¹⁰²

There were several reasons for this policy toward lustration. Among them were classical liberal arguments against applying collective guilt, respect for the rule of law, the fact that secret-police files could be untrustworthy, and the perception that lustration would be politically destabilizing. The new government had to deal with an economy in severe crisis while the communists retained considerable influence over the political process.¹⁰³

However, it does not mean that Mazowiecki's government did nothing about the old communist cadres. There was considerable personnel change in a number of important spheres of public life. Verification commissions were set up to check individual service records at all levels of the legal system. These changes were not presented officially as verification, however, to avoid sensationalism. This factor, as well as growing public frustration and dissatisfaction with the social consequences of economic reforms, influenced dissatisfaction with "thick line" policy in the following years.¹⁰⁴ The policy, which might have been a good way to avoid destructiveness in the

¹⁰² Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, *Europe-Asia Studies*, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

¹⁰³ Ibid.

¹⁰⁴ Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, *Europe-Asia Studies*, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

transition phase, came under attack for allowing communist nomenklatura to remain in public life. And it started coming back on the agenda politically, being raised mainly by the right wing of Solidarity, such as the Center Agreement and Christian National Union. These parties won relative success during the first fully free parliamentary elections in October 1991.¹⁰⁵

After these elections, Jan Olszewski, a committed anti-communist and supporter of lustration and decommunization, was nominated as prime minister. President Walesa did not support this candidate; however, Olszewski was the only one who could gain a vote of confidence in parliament. The Olszewski government came to power promising a clean break with the communist past. In Olszewski's view, Mazowiecki did not do enough to ex-communists, and Jan Krzysztof Bielecki, who was prime minister after Mazowiecki, had continued the same policy.¹⁰⁶ The Olszewski government believed that thick line allowed those who had committed crimes to cover them up with impunity while retaining wealth and privilege obtained at the expense of the people.¹⁰⁷

On May 28, 1992, the Sejm adopted a controversial resolution demanding information about high-ranking public officials and a release to the public of all names of those who had cooperated with the communist security services.¹⁰⁸ Accordingly, on June 4 the minister of the interior, Antoni Macierewicz, delivered a list of sixty-four alleged secret agents and collaborators to party leaders in the Sejm. A second list of thirty-seven was passed through a narrower group of officials, including the Sejm and Senat speakers and President Walesa. However, the content of those lists proved controversial, because

¹⁰⁵ Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, *Europe-Asia Studies*, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

¹⁰⁶ Charles C. Bertschi, *Lustration and the transition to democracy: The cases of Poland and Bulgaria*, *East European Quarterly*. Boulder: Winter 1994. Vol. 28, Iss. 4, <http://libproxy.nps.edu/login?url=http://proquest.umi.com/libproxy.nps.edu/pqdweb?did=4581110&sid=2&Fmt=3&clientId=11969&RQT=309&VName=PQD> (accessed March 19, 2008).

¹⁰⁷ Ibid.

¹⁰⁸ Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, *Europe-Asia Studies*, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

they did not reliably show collaboration; they included the names not only of genuine collaborators but also of people the secret police had tried, but failed, to recruit.¹⁰⁹ As fallout, Olszewski's government was dismissed and the impression was left that releasing the lists on the day before a no-confidence vote was a desperate attempt to save a crumbling administration by discrediting its opponents. This incompetent and apparently politically motivated attempt to reveal collaborators with the communist secret services seemed to discredit lustration *per se*. It demonstrated how lustration could be manipulated to achieve short-term political objectives.¹¹⁰

Shortly after the revealing of the lists, the Polish Constitutional Tribunal agreed that the resolution was unconstitutional. The judges claimed that the resolution did not provide necessary protections of human rights and violated the rule of democratic law. As a result of this verdict, execution of the resolution was suspended and a special parliamentary commission acknowledged that the minister of the interior had acted improperly. Macierewicz was accused by the prosecutor of breaking the law concerning national secrets. Nevertheless, the court said that the former minister could be judged only by the Tribunal of the State, which dealt with high officials suspected of crimes against the state and nation.¹¹¹ Several persons named by the interior minister as collaborators requested and received a public apology from the ministry, which asserted that it was impossible to make a conclusive determination of collaboration based solely on its files.¹¹²

This infamous attempt at lustration activated several groups and political parties to prepare their own lustration proposals. Within two months, six draft bills were submitted to Parliament and, despite strong opposition from the post-communist parties,

¹⁰⁹ Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, *Europe-Asia Studies*, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

¹¹⁰ *Ibid.*

¹¹¹ *Lustracja w Polsce-20 lat za późno*, *Gazeta Wolni i Solidarni*, March 23, 2007, http://www.gazetazeta.com/artman/publish/article_17375.shtml (accessed March 18, 2008).

¹¹² Maria Los, *Lustration and Truth Claims: Unfinished Revolutions in Central Europe*, *Law & Social Inquiry*, Vol. 20, No. 1. (Winter, 1995), <http://links.jstor.org/sici?sici=0897-6546%28199524%2920%3A1%3C117%3ALATCUR%3E2.0.CO%3B2-U> (accessed March 17, 2008).

were sent to relevant parliamentary commissions for consideration. However, the whole process was slowed by systematic resistance from Democratic Left Alliance deputies. Before parliamentary elections in September 1993, most parties revealed publicly their views on the issue of lustration. Only the two parties clearly linked to the former Communist Party strongly opposed lustration, but considerable opposition was also expressed by Tadeusz Mazowiecki's Democratic Union. After elections and the creation of a ruling majority coalition by the two post-communist parties, the former nomenklatura returned to important posts and took control of the legislative process. In June 1994, two new lustration bills prepared by opposition parties were voted down on the first reading. The only bill approved for further deliberation was a de facto anti-lustration measure submitted by the Democratic Left Alliance, the leading post-communist party.¹¹³

The idea of legally regulated lustration was brought back at the beginning of 1996 after the forced resignation of Prime Minister Jozef Oleksy over accusations of collaboration with the Soviet Union's secret police. A few lustration bills were submitted to the Sejm. In January of 1997, a special parliamentary commission adopted a common project of the legislature concerning lustration, including a proposal from all parties holding parliamentary seats and President Aleksander Kwasniewski. However, during further consultation, this proposal was rejected by the governing post-communist party, the Democratic Left Alliance (SLD), who demanded amendments.¹¹⁴ Nevertheless, a centrist coalition comprising the opposition Freedom Union (UW), Labor Union (UP) and, crucially, the Polish Peasant Party (PSL)—the junior governing partner of the Democratic Left Alliance—had the parliamentary strength to resist the SLD.¹¹⁵

¹¹³ Maria Los, *Lustration and Truth Claims: Unfinished Revolutions in Central Europe*, Law & Social Inquiry, Vol. 20, No. 1. (Winter, 1995), <http://links.jstor.org/sici?sici=0897-6546%28199524%2920%3A1%3C117%3ALATCUR%3E2.0.CO%3B2-U> (accessed March 17, 2008).

¹¹⁴ Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, Europe-Asia Studies, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

¹¹⁵ Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, Europe-Asia Studies, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

The Sejm approved the lustration bill in April 1997. Among its 460 members, 214 voted in favor, 162 against, and sixteen abstained. The Senat approved the bill in May 1997. Among a hundred senators, forty-seven voted for it and thirty-three against. The bill could still have been blocked if President Kwasniewski had exercised his veto power, given that the lustration coalition lacked the two-thirds parliamentary majority required to overturn it.¹¹⁶ Nevertheless, in spite of intense pressure from his SLD supporters, Kwasniewski signed the bill into law in June 1997, although he later requested that the Constitutional Tribunal abrogate some of its provisions.¹¹⁷ The act, “On The Revealing of Work or Service in State Security Organs or of Collaboration With Them Between 1944 and 1990 by Persons Holding Public Positions” (the Polish lustration act) came into force August 3, 1997 and was several times amended. On October 21, 1998, the Constitutional Tribunal upheld the act. However, in a subsequent decision of November 10, 1998, it found two of its provisions unconstitutional.¹¹⁸

“The main feature of the Polish lustration act is verification of affidavits submitted by persons who apply for positions specified by the act as to whether they worked or collaborated with security services of the communist regime. The substance of these affidavits, if they reveal collaboration, is officially published in *Monitor Polski* (the *Polish Monitor*), the government gazette.”¹¹⁹ However, this act did not ban persons who admitted collaboration from holding public positions; the decision was left to the person appointing or the verdict of voters.¹²⁰ This legislation created a special lustration prosecutor, the spokesperson of the public interest (RIP), and approved the Warsaw court

¹¹⁶ Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, *Europe-Asia Studies*, Vol. 54, No. 4. (June 2002), <http://links.jstor.org/sici?sici=09668136%28200206%2954%3A4%3C553%3ADWTCPO%3E2.0.CO%3B2-2> (accessed March 18, 2008).

¹¹⁷ Roman David, *Lustration laws in action: The motives and evaluation of lustration policy in the Czech Republic and Poland (1989-2001)*, *Law & Social Inquiry*, Chicago, Spring 2003, Vol. 28, Iss. 2, <http://libproxy.nps.edu/login?url=http://proquest.umi.com/libproxy.nps.edu/pqdweb?did=378089671&sid=2&Fmt=4&clientId=11969&RQT=309&VName=PQD> (accessed March 19, 2008).

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ *Lustracja w Polsce - 20 lat za późno*, *Gazeta Wolni i Solidarni*, March 23, 2007, http://www.gazetagazeta.com/artman/publish/article_17375.shtml.

of appeal as a lustration court. Lustration of an individual can be initiated by the RIP at court or by a member of parliament as well.

The court decides whether the affidavit is true or false, or orders a suspension of the case. The lustrated person is in the position of an accused according to criminal law and she can appeal the judgment. The results of the lustration are published in the *Polish Monitor*. A false affidavit is sanctioned by the loss of moral qualification for ten years, which implies the loss of the right of access to any public positions for that duration.¹²¹

Public positions affected by the act include the highest constitutional officials, such as the president, members of parliament, and persons assigned, elected, or appointed by the president and other constitutional entities. The provisions also include senior public officials, judges, prosecutors, advocates, media leaders, and the Ministry of Public Security and the Committee for Public Security Affairs and their subordinated units, the security services (secret police), army intelligence and counterintelligence, and other services of the military forces. The lustration act also covers civil and military organs and foreign institutions that were engaged in tasks similar to the mentioned organs.¹²²

2. Decommunization

Decommunization is a legislative ban on the performance of certain public functions and holding of certain positions in the political, economical and societal spheres by members of Communist Party nomenklatura and activists, as well as representatives of the communist regime's holding some positions in that system. It means political, historical, and legislative dealing with communist times and a barring from positions of public responsibility the former high officials of the party and their apparatus of

¹²¹ Roman David, *Lustration laws in action: The motives and evaluation of lustration policy in the Czech Republic and Poland (1989-2001)*, Law & Social Inquiry, Chicago, Spring 2003, Vol. 28, Iss. 2, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=378089671&sid=2&Fmt=4&clientId=11969&RQT=309&VName=PQD> (accessed March 19, 2008).

¹²² Ibid.

enforcement.¹²³ The various attempts to regulate the issue of decommunization in Poland have evoked broad discussion and argument.¹²⁴

In Poland, nineteen years after the Roundtable Talks, the problem of decommunization still exists and has not found solution in any legislation or regulation, despite a few attempts to deal with the issue. Decommunization was included in the electoral platforms of a number of the political parties that governed Poland in the past several years. Critics of the contemporary situation, in which a significant number of former communists still remain in public life, blame the 1989 agreement, when the nomenklatura were granted beneficial positions in Polish society. The best time to conduct decommunization was wasted and communists were allowed to maintain their influence in the new democracy.¹²⁵ The evolutionary character of the Polish revolution from 1989, although it finished communist rule, did not bring change to the composition of the elites; a marked continuity could be seen in post-1989 Poland. About one-third of 1988's elite-position holders in politics, culture, and the economy held the same or comparable positions in 1993. In some sectors, a continuity of fifty percent was maintained among economic elites. Moreover, substantial proportions of the "new" elites in 1993 had been "deputies" and other influentials just below the top nomenklatura rank in 1988.¹²⁶ Change in the orientation of the elites enabled them to adapt to, and even thrive in, post-communist economic and political conditions. A good example is Aleksander Kwasniewski, the president of Poland in the years 1995–2005. Kwasniewski was a junior minister in Poland's last communist government, but Poles elected him in November 1995 in part because they perceived him as representing the "new," forward-looking, pragmatic generation of leaders.

¹²³ Jan Maria Jackowski, *Dekomunizacja po polsku*, Nasz Dziennik nr 59, 10-11 March 2007, <http://www.naszdziennik.pl/index.php?typ=my&dat=20070310&id=my21.txt> (accessed March 15, 2008).

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Jacek Wasilewski, *Communist Nomenklatura in Post-Communist Eastern Europe: Winners or Losers of Transformation?* Warsaw: Polish Academy of Sciences, 1995 in John Higley, Judith Kullberg and Jan Pakulski, *The Persistence of Postcommunist Elites*, *Journal of Democracy*, 7.2, 1996, http://muse.jhu.edu.libproxy.nps.edu/journals/journal_of_democracy/v007/7.2higley.html (accessed March 15, 2008).

During and after the transitions of 1989-91, communist leaders scrambled to protect their power bases or to create new ones. Their maneuvers were varied. Some negotiated places for themselves in post-communist regimes through the famous 'roundtable talks.' Many cashed in the credits they had accumulated through patron-client networks and appropriated large parts of state-industrial enterprises ('nomenklatura privatization'); still others colluded in 'mafia' activities to profit from weakened state oversight and regulation.¹²⁷

The survival of nomenklatura members was generally higher in the economic and administrative than in the political field, and more pronounced among less-important communist activists than top leaders. The most politically visible and discredited leaders of the communist establishment were of course removed quickly and publicly from position; however, the bulk of former communist party and governmental elites, even after broad changes in politics and free elections at various levels of government, still remained in position.¹²⁸ Unlike most previous revolutions, the revolution of 1989 did not produce a counter-elite dedicated to the imposition of democratic order and the liquidation of elites associated with communism. As a result, most elites associated with the old order adapted to democratization without major loss.¹²⁹

In the aftermath of the Roundtable Talks, a few legislative initiatives were proposed, but none has succeeded so far. The first debate on decommunization was conducted in January 1992 and concerned the project of legislation with two chapters about decommunization. Nevertheless, this project was rejected broadly in the parliament. In the Polish senate on July 1992, qualifications for public positions were raised, with the intention of barring those who sustained the structures of totalitarianism. According to this project, ex-nomenklatura would be banned from holding the most

¹²⁷ John Higley, Judith Kullberg and Jan Pakulski, *The Persistence of Postcommunist Elites*, *Journal of Democracy*, 7.2, 1996, http://muse.jhu.edu.libproxy.nps.edu/journals/journal_of_democracy/v007/7.2higley.html (accessed March 15, 2008).

¹²⁸ Ibid.

¹²⁹ Ibid.

important offices for some time. This project was passed by the Senat and forwarded to the Sejm, but following new elections in September 1993, the victorious Post-Communist Party dropped the issue.¹³⁰

The next time the Parliament tackled decommunization was in October 1999. This project, prepared by right-wing parliamentarians, proposed that former highly placed apparatchiks not be allowed to hold responsible positions in state administration for ten years. A five-year term ban would apply to political workers of the Communist Party, rectors of party universities and academies, chiefs of a few party newspapers, and heads of public television, radio, and information agencies. Those sanctions would not preclude the right to be a candidate for the Polish parliament or presidency. This legislation, although imposing a few significant bans on the nomenklatura, was aimed mainly to publicly condemn them for having been part of a totalitarian regime responsible for more than forty years' state and economic dependence on the particular interests of the Soviet Union. However, the parliament, despite its right-wing majority, did not approve the project, to the astonishment of observers.¹³¹

After the elections of 2001, when the Post-Communist party won overwhelmingly, it was more than obvious that decommunization would not be discussed in Parliament. Nevertheless, the radical party of the League of Polish Families submitted decommunization legislation, which was not even initially discussed by the Post-Communist-dominated parliament. This project proposed that people who from July 1994 to July 1989, during the communist dictatorship, were acting against the interests of the Polish nation, would lose the right to hold public positions. It included people holding leading positions in party structures, apparatus, schools, and newspapers. It also proposed the creation of a twelve-member commission to judge whether an individual was holding

¹³⁰ Jan Maria Jackowski, *Dekomunizacja po polsku*, Nasz Dziennik nr 59, March 10-11, 2007, <http://www.naszdziennik.pl/index.php?typ=my&dat=20070310&id=my21.txt> (accessed March 15, 2008).

¹³¹ Ibid.

certain positions during the communist reign.¹³² As mentioned above, this project had no chance in that parliament, which postponed the discussion of decommunization until the next parliamentary campaign in 2005.

C. THE PARLIAMENTARY ELECTIONS OF 2005, THE “PEACE AND JUSTICE” PARTY VICTORY, AND THE LUSTRATION LAW OF 2006

“The removal of former agents and collaborators of the security services from important state functions, together with the enactment of legal measures to prevent them from assuming such functions in the future, is a basic requirement of justice and an essential condition for the safe development of democracy in Poland.”¹³³ So the problem of lustration and decommunization came back to the attention of public opinion during the 2005 parliamentary elections. The opposition party “Peace and Justice” made lustration and decommunization the main planks of its electoral platform. Party leaders Lech and Jaroslaw Kaczynski, twin brothers, maintained that Poland’s difficult situation had its roots in a badly chosen road of transformation after the regime change in 1989. Communist Poland was a deeply pathological country and the newly democratic Third Republic of Poland had inherited many of its deficiencies. The Kaczynski brothers made up the theory of “uklad,” a supposed network of communist-era spies and their allies in business and public services that they blamed for Poland's troubles since 1989.¹³⁴

To fight uklads and break with the past, they came up with the idea of a Fourth Republic of Poland, a democratic country free of ties with the past and based on social equity and Catholic and family values. The first step was to clean up the heritage of communism and destroy układ remnants.¹³⁵

They proposed that lustration still be conducted and its range broadened to include members of the National Security Council and Financial Policy Council, the

¹³² Jan Maria Jackowski, *Dekomunizacja po polsku*, Nasz Dziennik nr 59, March 10-11, 2007, <http://www.naszdziennik.pl/index.php?typ=my&dat=20070310&id=my21.txt> (accessed March 15, 2008).

¹³³ Ibid.

¹³⁴ Prawo i Sprawiedliwość, *PROGRAM 2005*, <http://www.pis.org.pl/dokumenty.php?s=partia&iddoc=3> (accessed April 4, 2008).

¹³⁵ Ibid.

management of strategic banks, ambassadors, and persons in professions of public trust such as teachers and academic faculties. What is more, every citizen should have right to access his secret police files and reveal its contents to the public. All collaborators and workers of the communist secret police should be known to the public, and files concerning persons in public positions should be commonly accessible. As a logical next step after lustration, they also announced an intention of decommunization, with plans to liquidate all institutions considered to have been infiltrated by communists, to deprive communist activists of privileges, and to reveal the mechanisms by which communism persisted in the guise of a successor “post-communist” party, the Democratic Left Alliance.¹³⁶

As a result of aggressive electoral campaigning and voter fatigue from four years of Democratic Left Alliance scandals and corruption, Peace and Justice, surprisingly, against all polls, won election in 2005. The next year, after forming a governing coalition with the radical League of Polish Families and the populist Self-Defense Party, Peace and Justice proposed a new lustration law, which was enacted in October 2006 and, after presidential amendments, enforced in March 2007.

This legislation required that the files of secret police concerning sources of information be fully revealed. It also broadened access to files regarding collaborators with the secret police and those in the secret police’s sphere of interest as a danger to the existing political order. It sustained the ten-year ban from public office of those who would not admit cooperation with the communist secret services. It established also the notion that cooperation with the secret police included passive awareness of its activity while holding a position, function, occupation, or service of responsibility, if information was divulged with the intention of violating freedoms and rights. Moreover, lists of persons collaborating with communist public-order services would be published,

¹³⁶ Prawo i Sprawiedliwość, *PROGRAM 2005*, <http://www.pis.org.pl/dokumenty.php?s=partia&iddoc=3> (accessed April 4, 2008).

including officers of those services, people persecuted by them, and members of the communist nomenklatura including the Communist Party leaders.¹³⁷

Persons born before August 1, 1972 and holding any public position were obliged to submit a statement concerning their relations with the communist secret police. If they refused, they would lose their positions. All these statements would be published. The legislation also established two groups of people, one whose files would be fully accessible to everybody and another whose content could be restricted. In the first group were the president, members of Parliament, important state functionaries, presidents and mayors of cities, chiefs of courts, chiefs of offices of prosecutors, and managers of media. In the second group were members of local governments, workers for the Institute of National Remembrance (IPN), judges, prosecutors, attorneys, public notaries, scientists, managers of state-owned enterprises, principles of schools, and journalists. The law generally required up to 700,000 people to confess whether they were secret-service informants.¹³⁸

The authenticity of those statements would be checked by the lustration bureau of IPN. In case of doubt, the bureau would demand explanations from the suspect and send the case to court. A verdict that information was withheld or falsified would result in automatic loss of employment and a ten-year term during which the individual could not hold public positions defined by the lustration law.¹³⁹

This law was controversial from the beginning and after a couple of months was partially struck down by the constitutional tribunal as too wide in scope and properly applicable to senior officials only. "Lustration cannot be used to punish people or as a form of revenge and the vetting law can only be applied to individuals, not collectively.

¹³⁷ *Prezydent podpisał ustawę lustracyjną*, Money.pl, Portal finansowy nr 1, <http://www.money.pl/gospodarka/polityka/artykul/prezydent;podpisal;ustawe;lustracyjna,87,0,223575.html> (accessed April 5, 2008).

¹³⁸ *Polish court strikes down spy law*, <http://news.bbc.co.uk/2/hi/europe/6648435.stm> (accessed April 6, 2008).

¹³⁹ *Prezydent podpisał ustawę lustracyjną*, Money.pl, Portal finansowy nr 1, <http://www.money.pl/gospodarka/polityka/artykul/prezydent;podpisal;ustawe;lustracyjna,87,0,223575.html> (accessed April 5, 2008).

Government should not seek vengeance in dealing with the country's communist past. The state must respect human rights and not have recourse to vengeance." ¹⁴⁰

The tribunal's decision was a blow to the Kaczynskis' campaign to root out ex-communist influence and secret police collaborators from public life. Although they tried to pressure the Polish Constitutional Tribunal to reveal information concerning the alleged cooperation of two of its judges with the secret police, the tribunal was not dissuaded from stopping the "moral revolution" pursued by the Kaczynski brothers. Attempts to reveal the truth are essential; however, it cannot be tolerated that the process of lustration and decommunization go along with a revolution against the values that made peaceful transition from totalitarianism possible.¹⁴¹ The Kaczynskis stated that if the tribunal struck down their lustration law, they would pass a new one, making thousands of secret-police files public despite serious doubts regarding their veracity, which was found to be fictional in several recent high-profile cases.¹⁴² Nevertheless, they did not keep their promise or carry out their threat to expose files to the public, because a few months later the government lost a vote of confidence—and the following parliamentary election as well.

The lustration law sparked huge discussion. The decision was a stunning victory for the law's opponents, led by former dissidents and Solidarity activists, historian and former minister of foreign affairs Bronislaw Geremek, and the first non-communist prime minister, Tadeusz Mazowiecki, who stood in the first line of the fight to strike down the legislation.¹⁴³ They refused to sign declarations concerning their past, claiming that this law brought the logic of revenge to the borders of irrationality and increased the risk of

¹⁴⁰ Jan Cieski, *Judge curbs Polish informers law*, Financial Times, May 12, 2007, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=1269838911&sid=1&Fmt=3&clientId=11969&RQT=309&VName=PQD> (accessed September 1, 2007).

¹⁴¹ *Palący policzek dla Kaczynskich*, Onet.pl, Wiadomości, May 14, 2007, <http://wiadomosci.onet.pl/1410516,2677,kioskart.html> (accessed April 6, 2008).

¹⁴² Jan Cieski, *Judge curbs Polish informers law*, Financial Times, May 12, 2007, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=1269838911&sid=1&Fmt=3&clientId=11969&RQT=309&VName=PQD> (accessed September 1, 2007).

¹⁴³ *Palący policzek dla Kaczynskich*, Onet.pl, Wiadomości, May 14, 2007, <http://wiadomosci.onet.pl/1410516,2677,kioskart.html> (accessed April 6, 2008).

political manipulation, because it was supported by secret-police files that were often incomplete or partly destroyed and capable of being forged. Many journalists, university rectors, and scholars also refused to sign declarations, saying the law was itself reminiscent of communist times, when people were forced to sign loyalty pledges.¹⁴⁴

Critics also said that screening laws, however well meant, tended to hit collaborators—perhaps coerced at the time and remorseful now—more than perpetrators. Heavy vetting was seen as a cumbersome way of dealing with the *uklad*. “A better one would be to make the economy more open, so that connections ceased to matter. They called the law unacceptable on both moral and legal grounds, which put its authors beyond the pale of Western civilization. The final version proposed by the president is vague, lacking a clear definition of collaboration.”¹⁴⁵ What is more and worse, the government had created a paranoid atmosphere in which secret materials were close to becoming political currency. “Government critics complained of being bugged: hard to prove, but a fear rarely expressed since the collapse of communism.”¹⁴⁶

Some of the critics maintained that lustration had become a tool not only of revenge, but of politics. “What may look like an effort to reconcile with the Communist past is something else entirely. It is an assault on reconciliation and a generational bid for power. Difficulties with gripping the past in Poland come partially from too smooth transition. If communism had collapsed abruptly, swift retribution would have been more likely.”¹⁴⁷ Moreover, the crucial problem of defining an “agent” remained.

Under Communism, the secret service was omnipresent. It harassed large numbers of people, forcing many to sign loyalty declarations or to collaborate. Most people told them lies, signed the declarations and went home. In 2000, the Supreme Court declared that those who had merely appeared to cooperate, but who avoided providing the security services with any vital information, could not be considered collaborators, even if

¹⁴⁴ *Polish court strikes down spy law*, <http://news.bbc.co.uk/2/hi/europe/6648435.stm> (accessed April 6, 2008).

¹⁴⁵ *Europe: Heavy vetting; Poland and its past*. The Economist, April 7, 2007, 49-50. <http://www.proquest.com.libproxy.nps.edu/> (accessed September 1, 2007).

¹⁴⁶ *Ibid.*

¹⁴⁷ Wiktor Osiatynski. *Poland Makes Witch Hunting Easier*. New York Times, January 22, 2007, Late Edition (east Coast), <http://www.proquest.com.libproxy.nps.edu/> (accessed September 1, 2007).

they signed agreements and met with agents. Certainly, there were people in cells of the Solidarity underground who got paid to spy on their best friends, and these people did real damage. Unfortunately, the secret police files do not distinguish at first sight between them and others who did not do much harm. To make a valid accusation, it was necessary to analyze the files and other evidence in detail. But this process was too slow for the advocates of de-communization, many of whom have always wanted to use the secret police files as a tool in fighting their opponents.¹⁴⁸

Lustration can also be harmful if done improperly. “When historians and some journalists received access to the files, leaks soon began to attract media attention. In January 2005, the entire list of more than 120,000 names was leaked from the Institute of National Remembrance, where the files are held. The list did not discriminate between agents and those who were merely under surveillance. As a consequence, lustration in Poland became prey for today's hunters, proving again that whenever history falls into the hands of politicians, distorted truth becomes an instrument for their own goals.”¹⁴⁹

The new lustration law created a great opportunity for those who would like to get rid of their opponents, no matter whether they really collaborated or not. It weakened procedural safeguards against false accusation, doing away with the presumption of innocence and making it possible to publish the files of anyone active in the public sphere. As a result, every sitting or aspiring official who lived under communism was at risk of slander.¹⁵⁰

¹⁴⁸ Wiktor Osiatynski. *Poland Makes Witch Hunting Easier*. New York Times, January 22, 2007, Late Edition (east Coast), <http://www.proquest.com.libproxy.nps.edu/> (accessed September 1, 2007).

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

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IV. A COMPARATIVE STUDIES OF COUNTRIES THAT HAD TO DEAL WITH THEIR PAST

A. POST-NAZI GERMANY

The denazification in Germany after the war was a campaign by the allies to obliterate all signs of Nazism in social, political, cultural, educational, legal, and economic life and to remove from public positions and punish those who worked for or supported Hitler's regime. This clean sweep would allow the development of a democratic Germany.¹⁵¹

The policy of denazification was first enunciated after the Yalta Conference at the beginning of 1945. Leaders of the Big Three agreed that German militarism and Nazism had to be destroyed and that it would be necessary to dismantle the Nazi Party and associated laws, organizations, and institutions, and remove Nazi and militarist influence from public institutions, culture, and the economy.¹⁵²

This statement was later expanded at the Potsdam Conference, which asserted that the Soviet occupation was aimed at destroying the National Socialist Party and its affiliated and supervised organizations; dissolving all Nazi institutions to ensure that they were not revivable in any form; and abolishing laws that undergirded the Hitlerian regime or discriminated on the grounds of race, creed, or political opinion. Moreover, war criminals and those who participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes were to be arrested and brought to judgment. Nazi leaders, influential supporters, and high officials of Nazi organizations and institutions—and any other persons dangerous to the occupation or its objectives—would be arrested and interned. All members of the Nazi Party who were more than nominal participants in its activities and all other persons hostile to allied purposes would be removed from public and semipublic offices and positions of responsibility in

¹⁵¹ Onet.pl, Wiem, Portal Wiedzy, <http://213.180.130.202/62023,,,denazyfikacja,haslo.html> (accessed April 13, 2008).

¹⁵² Elmer Plischke, *Denazifying the Reich*, *The Review of Politics*, Vol. 9, No. 2, April 1947, Cambridge University Press for the University of Notre Dame, <http://www.jstor.org/stable/1404219> (accessed April 13, 2008).

important private undertakings. Such persons would be replaced by those who, by their political and moral qualities, were deemed capable of helping develop genuine democratic institutions in Germany.¹⁵³

The issue of denazification appeared on the agenda along with the immediate disarmament, demilitarization, decentralization, decartelization, and democratization of defeated Germany,¹⁵⁴ so that Germany would never again threaten its neighbors and the world. The task of demilitarization and disarmament of the armed forces was undertaken swiftly and resolutely by occupying allied forces. However, the matter of denazification—removing Nazi institutions, leadership and psychology from German life—was far more difficult.¹⁵⁵

Allied troops advancing into Germany arrested war criminals and others suspected of affiliation with Nazi organizations and took control of local government and administration. They assumed responsibility for resolving communal problems, assuring the food supply, repairing damaged utilities, activating police forces, providing transportation, and securing at least minimal health standards. However, those tasks were not easy if supporters of the Nazis regime were excluded entirely. As Nazi organizations were liquidated, their leaders were arrested and supporters were removed from positions of authority, paradoxically making denazification more difficult, because it might have been more prudent to keep those who were qualified at their jobs. In time, however, denazification became top priority, and collaborators were excluded even if it was impossible to replace them.¹⁵⁶

¹⁵³ Elmer Plischke, *Denazifying the Reich*, The Review of Politics, Vol. 9, No. 2, April 1947, Cambridge University Press for the University of Notre Dame, <http://www.jstor.org/stable/1404219> (accessed April 13, 2008).

¹⁵⁴ John H. Herz, “Denazification and Related Policies” in *From Dictatorship to Democracy: Coping with the Legacies of Authoritarianism and Totalitarianism*, ed. John H. Herz (Greenwood Press, Westport, Connecticut, 1982), 18.

¹⁵⁵ Elmer Plischke, *Denazifying the Reich*, The Review of Politics, Vol. 9, No. 2, April, 1947, Cambridge University Press for the University of Notre Dame, <http://www.jstor.org/stable/1404219> (accessed April 13, 2008).

¹⁵⁶ Ibid.

Denazification was based on the directives of the supreme headquarters of the allied expeditionary forces and on working regulations, which developed into separate military-government laws and directives for Germany. The directives under which the Military Government operated were confined primarily to the processes by which Nazis and militarists were removed from public office and responsible positions in private enterprise, in accordance with the policy expressed by the joint chiefs of staff's JCS 1067¹⁵⁷ and the Potsdam Declaration. It later evolved into the objective not only of removals and exclusions, but also discovery and punishment of active Nazis and militarists.¹⁵⁸

The denazification program at the end of 1945 consisted of the following elements:

- "liquidating the Nazi Party, together with its affiliated and subsidiary organizations, including the SA (Sturmabteilung), SS (Schutzstaffel), and HJ (Hitler Jugend)
- eradicating of Nazism from German legislation, decrees, and regulations, and more specifically the abolition of the Nazi discriminatory laws and decrees
- changing of names of parks, streets and public ways, institutions and buildings named after persons or things associated with Nazism or German militarism, removing of movable monuments and statues associated with Nazism and German militarism, removing of Nazi emblems, insignia, and symbols from statues, monuments, and edifices not amenable to removal pending their eventual disposition
- seizing and holding of premises, property, funds, and loot of the Nazi Party and its affiliated and subsidiary organizations and of individual Nazis subject

¹⁵⁷ Harold Zink, *The United States in Germany: 1944-1955*, (D. Van Nostrand Company, Inc., Princeton, New Jersey, 1957), 155.

¹⁵⁸ *Cumulative review of program, 1945-47: Excerpt from report of Military Governor, March 1947, Germany 1947-1959: The Story in Documents* (The Department of States, Division of Publications, Office of Public Affairs, 1950), 107.

to arrest, seizing and holding of archives of the Nazi Party and its affiliated and subsidiary organizations

- prohibiting of Nazi privileges and benefits and payments of Nazi pensions and emoluments
- arresting and detaining Nazi leaders, influential Nazi supporters, and other persons dangerous to the Allied occupation or its objectives
- removing and excluding from public office and from positions of responsibility and importance in quasi-public and private enterprise of members of the Nazi Party who had been more than nominal participants in its activities, active supporters of Nazism, and other persons hostile to Allied purposes
- preventing Nazi propaganda in any form, and removing of Nazism from German information services and media-such as press, radio, the theater, and entertainment-and also from education and religion
- prohibiting German parades, the public playing or singing of Nazi anthems and the public display of Nazi flags and other Party insignia and paraphernalia.”¹⁵⁹

After some difficulties at the beginning of denazification (which was of course not the only task allies had to deal with), it was given priority. The political division of the US group, the Control Council for Germany, put higher emphasis on the process, engaging more and more military and civilian personnel and setting up special branches to do the vetting.¹⁶⁰ However, increasing the number of personnel did not bring efficiency to the task, since there were thirteen-million people, for instance, who had filed questionnaires detailing their previous occupation, activities, memberships, and offices in

¹⁵⁹ Elmer Plischke, *Denazifying the Reich*, The Review of Politics, Vol. 9, No. 2, April 1947, Cambridge University Press for the University of Notre Dame, <http://www.jstor.org/stable/1404219> (accessed April 13, 2008).

¹⁶⁰ Harold Zink, *The United States in Germany: 1944-1955*, (D. Van Nostrand Company, Inc., Princeton, New Jersey, 1957), 159.

specified organizations.¹⁶¹ It was found necessary in August 1946 to grant amnesty to at least the younger generation, unless they held important positions in the Hitler Youth. A second amnesty in December cleared many persons deemed not to have benefited unduly from the Nazi regime. Disabled veterans received amnesty as well. These measures decreased the pending cases to about two million.¹⁶²

To relieve the American government, responsibility for denazification was transferred to the Germans with American supervision, under the “Law for the Liberation from National Socialism and Militarism,” which came into force on June 1, 1946. The Americans maintained that it was according to the best democratic traditions to let the Germans purge themselves. Under this law, 545 German tribunals with more than 22,000 staff were created to finish the process, which was nevertheless difficult in a country still suffering from the shock of war. Finding enough judges, prosecutors, and other staff was hard, especially since there were Nazi files on almost everyone who aspired to such positions. However, denazification proceeded, and in five months the tribunals examined almost 600,000 cases, of which 530,000 were eliminated without trial.¹⁶³

Statistics of the tribunals showed 930,000 people charged, but only about 21,000 found guilty as offenders and 1,600 as major offenders. These results seemed unimpressive, considering the energy the military government had devoted to denazification. Scandals, bribery, and strange verdicts overshadowed the whole process. Some of the most notorious Nazis simply escaped amid the bureaucratic confusion and disappeared.¹⁶⁴

With the onset of the Cold War, as the political atmosphere changed and American attention turned to other matters, it became clear that strengthening the western zones would be more important than purging the past or getting rid of efficient

¹⁶¹ John H. Herz, “Denazification and Related Policies” in *From Dictatorship to Democracy: Coping with the Legacies of Authoritarianism and Totalitarianism*, ed. John H. Herz (Greenwood Press, Westport, Connecticut, 1982), 26.

¹⁶² Harold Zink, *The United States in Germany: 1944-1955*, (D. Van Nostrand Company, Inc., Princeton, New Jersey, 1957), 159.

¹⁶³ Ibid., 163.

¹⁶⁴ Ibid., 164.

administrators who were managers capable of directing industrial enterprises. Amendments to the Liberation Law and amnesties from 1947 and early 1948 allowed almost every case of even major offenders to be downgraded to lower charges, making the offenders eligible for amnesty. By March 1948, the program of denazification was terminated, despite the fact that, legally, cases could be heard until the 1950s, when the new government of West Germany officially finished the process.¹⁶⁵ With the public's increasingly negative assessment of the whole pursuit, the Bundestag took up recommendations concerning denazification, called by the *Frankfurter Allgemeine* "liberation from the law of liberation." Denazification turned out to have been inconsequential in practical terms, with many cases of unjust treatment.¹⁶⁶

At the end of 1949, with German chancellor Konrad Adenauer's acceptance and support, the amnesty law, one of the first laws of the German Federal Republic, took effect.¹⁶⁷ Almost half a million people took advantage of the amnesty, which also applied to persons charged with economic offenses during the years of hunger. The strong will expressed by the Bundestag in this regard during its first stage of existence brought social peace and relief to the criminal courts. The amnesty was a positive indicator of a new beginning for society and a new regime, an act of significant political symbolism. "The amnesty marked a first confirmation on a federal level of the 'just leave it behind us' mentality that had already emerged in parts of Germany's postwar society in 1946–47 and that had continued growing."¹⁶⁸ It meant stepping on the path of delegitimizing of prosecution of crimes committed by Nazis. What is more, there was a feeling that a political purge imposed on Germans after the war by the occupational forces was unfair, failed, and had to be finished as soon as possible.¹⁶⁹

¹⁶⁵ John H. Herz, "Denazification and Related Policies" in *From Dictatorship to Democracy: Coping with the Legacies of Authoritarianism and Totalitarianism*, ed. John H. Herz (Greenwood Press, Westport, Connecticut, 1982), 29.

¹⁶⁶ Norbert Frei, *Adenauer's Germany and the Nazi past: the politics of amnesty and integration* (Columbia University Press, New York, 2002), 38.

¹⁶⁷ *Ibid.*, 19.

¹⁶⁸ *Ibid.*, 25.

¹⁶⁹ *Ibid.*

In the case of post-Nazi Germany, denazification meant barring certain people temporarily from holding important and influential positions, not their permanent ineligibility to hold such positions. The same rule applied to confiscated properties, which were restored after people were downgraded to a lower category of offense. Thus denazification was more a means of rehabilitation than a purge. It concerned particular people who could be successfully denazified, rather than the whole of German society.¹⁷⁰ The most important Nazi leaders was eliminated, but most of the collaborationist elite remained in or reentered the same positions in administration, justice, education, and the economy, that they had held under the Nazis. It became possible for the top level of the West German government to consist of those whose experience came from the pre-Hitler era working alongside those who had served the Nazi regime, or at least did not oppose its rule.¹⁷¹

B. POST-COMMUNIST CZECHOSLOVAKIA

Czechoslovakia rejected communism without bloodshed or violence in the very short time of several days. Her experience was different from that of Poland, where Solidarity struggled almost ten years to reject communist rule and make a compromise with communist elites. Barely ten days after the first street demonstration in which people demanded political and economic change, the Czechoslovakian Communist Party promised to hold free elections and abandon its “leading role.” Two months later, a new government with a non-communist majority was formed, subsequently followed by the election of an opposition leader, the dissident playwright and leader of Civic Forum Vaclav Havel, as president of Czechoslovakia.¹⁷²

Civic Forum, initially conceived neither as a political party nor alternative government, soon found itself running against communists in parliamentary elections.

¹⁷⁰ John H. Herz, “Denazification and Related Policies” in *From Dictatorship to Democracy: Coping with the Legacies of Authoritarianism and Totalitarianism*, ed. John H. Herz (Greenwood Press, Westport, Connecticut, 1982), 29.

¹⁷¹ *Ibid.*, 31.

¹⁷² Peter Cipkowski, *Revolution in Eastern Europe: understanding the collapse of communism in Poland, Hungary, East Germany, Czechoslovakia, Romania and the Soviet Union* (John Wiley & Sons, Inc., New York, 1991), 95.

Colossally popular, Civic Forum was able to defeat communists in elections. After an innovative, colorful campaign, during which it had high support according to pre-election polls, Civic Forum won the June 1990 election with 48% of the vote. Communist candidates were defeated severely and the new president, Vaclav Havel, announced that “Czechoslovakia entered an era of national rejuvenation,” adding that “now it is up to us alone whether our hopes come to pass, and whether our civic, national, and political self-confidence reawakens in a historically new way.”¹⁷³

However, Czechoslovakia did not survive the “velvet revolution” by more than two years, mainly because of ethnic tensions between Czechs and Slovaks and politicians whose conduct fuelled the breakup of the union. Czechs felt that Slovaks were taking advantage with their demands for budgetary subsidies for Slovakia, while Slovaks felt that Czechs were dominating them politically and economically.¹⁷⁴ On January 1, 1993 Czechoslovakia was formally replaced by two independent states, the Czech Republic and Slovakia, which formed a customs and monetary union along with other treaties. Nevertheless, this close cooperation has faded as a result of general disagreement over trade, tariffs, and immigration, as well as the strongly nationalistic culture promoted by Slovakian leaders, which was clearly opposed to the liberalism and tolerance of leading Czech politicians.¹⁷⁵

Czechoslovakia was one of the first post-communist countries to adopt a severe lustration law. Passed by the Czech and Slovak National Assembly in October 1991 shortly after release of a special parliamentary “Commission of 17 November” report

¹⁷³ Peter Cipkowski, *Revolution in Eastern Europe: understanding the collapse of communism in Poland, Hungary, East Germany, Czechoslovakia, Romania and the Soviet Union* (John Wiley & Sons, Inc., New York, 1991), 117.

¹⁷⁴ Marek Bankowicz, “Czechoslovakia: From Masaryk to Havel” in *The new democracies in Eastern Europe: party systems and political cleavages*, ed. Sten Berglund and Jan Ake Dellenbrant (2nd edition, Edward Elgar, 1994), 163.

¹⁷⁵ *Ibid.*, 166.

calling attention to some parliamentarians' connections with the old security services, the lustration law encountered strong resistance from many of the former opposition.¹⁷⁶

The Lustration Law forbade former communist party officials, members of People's Militia, the Members of the National Security Corps and suspected collaborators with communist security services to hold a wide range of elected and appointed state and civil service positions for a period of five years until January 30, 1996. This was later extended by parliament to the year 2000, a measure that required the override of a veto by President Vaclav Havel.¹⁷⁷ The Lustration Law from 1991 was aimed specifically at those whose names appeared in the files of the Czechoslovak communist secret police as well as those, who were registered as potential candidates for collaboration. However, this latter provision was unclear, and in 1992 the Constitutional Court declared it illegal while upholding all other provisions.¹⁷⁸

According to this law, former Communist officials and collaborators with the secret police were banned from holding positions in:

- the state administration at both federal and republican levels
- the Czechoslovakian army (the rank of colonel and higher)
- the federal security and information service
- the federal intelligence agency
- the federal police
- the office of the president
- offices of the federal assembly

¹⁷⁶ Michał Faszczka, *Zagadnienie lustracji w wybranych krajach Europy Wschodniej i Środkowo-Wschodniej: Część druga: Czechy i Słowacja*, Lexus-permanentnik studentów prawa, 2007, http://www.us.szc.pl/lexus_arch/?xml=load_page&st=13270&ar=1&id=7284&gs=&pid=17753 (accessed April 12, 2008).

¹⁷⁷ Mark S. Ellis, *Purging the past: the current state of lustration laws in the former communist block*, Law and Contemporary Problems, Autumn 1996, [http://www.law.duke.edu/shell/cite.pl?59+Law+&+Contemp.+Probs.+181+\(Fall+1996\)#H2N1](http://www.law.duke.edu/shell/cite.pl?59+Law+&+Contemp.+Probs.+181+(Fall+1996)#H2N1) (accessed April 12, 2008).

¹⁷⁸ Ibid.

- offices of the Czech National Council
- offices of the Slovak National Council
- offices of the federal, Czech, and Slovak governments; offices of the federal and republican constitutional courts
- the offices of the federal republican supreme courts
- the presidium of the Czechoslovakian Academy of Sciences
- Czechoslovak, Czech, and Slovak radio and television and the Czechoslovakian Press Agency
- top management in enterprises and banks owned by the state
- top academic at colleges and universities
- offices of judges and prosecutors.¹⁷⁹

After the breakup of Czechoslovakia on January 1, 1993, the process of lustration was continued in the newly created Czech Republic under exactly the same law, screening by August 1993 more than 200,000 people. In July 1993, the Czech parliament passed the “Law on the Legitimacy of and Resistance to the Communist Regime.” It stated that the former communist party was an illegitimate and criminal organization and honored those people who fought the Communist Party in the name of democratic, moral, and religious values. This law was later upheld by the Czech Constitutional Court.¹⁸⁰ What is more, an office for documentation and prosecution of communist crimes was formed. One year later, a law concerning the opening of secret-police files by victims was passed. However, the process of making the files accessible is slow, and only about

¹⁷⁹ Mark S. Ellis, *Purging the past: the current state of lustration laws in the former communist block*, Law and Contemporary Problems, Autumn 1996, [http://www.law.duke.edu/shell/cite.pl?59+Law+&+Contemp.+Probs.+181+\(Fall+1996\)#H2N1](http://www.law.duke.edu/shell/cite.pl?59+Law+&+Contemp.+Probs.+181+(Fall+1996)#H2N1) (accessed April 12, 2008).

¹⁸⁰ Ibid.

30,000 of 100,000 applications have been reviewed to date, from which only about 4,000 positively and have been allowed to see them.¹⁸¹

After the dissolution of Czechoslovakia, the lustration law was adopted by the newly created Republic of Slovakia; but the Slovakian government later opposed lustration and in January 1994 appealed to the Constitutional Court to overturn it. Though the court rejected the petition, the lustration law was never invoked, and remained inactive until it expired at the end of 1996. Every government announced that the problem of lustration would not be taken into discussion. Since 2004, the Slovakian Institute of the Remembrance of the Nation has been publishing on its website the names of secret-service collaborators; nevertheless, this exposure is not followed by any sanctions against those named.¹⁸²

The process of lustration in Czechoslovakia, and after its dissolution, in the Czech Republic, was controversial from the beginning. Supporters claimed that it had to be done lest communist crimes and abuses go unpunished. They also maintained that even limited justice was better than none. Opponents decried this law as dangerously presuming guilt, denying citizens due process of law, and damaging the country's image abroad. Even President Vaclav Havel, a former dissident, felt that the lustration law was an "incomprehensible expression of distrust in Czech ability to form a normal legal order and could only cast doubt at home and abroad on Czech capacity to be a fully fledged member of the family of democratic states."¹⁸³ The international community criticized the law, stating that it discriminated in employment and violated human-rights standards; specifically, that it assigned collective guilt by prosecuting individuals solely on the basis

¹⁸¹ Michał Faszczka, *Zagadnienie lustracji w wybranych krajach Europy Wschodniej i Środkowo-Wschodniej: Część druga: Czechy i Słowacja*, Lexus-permanentnik studentów prawa, 2007, http://www.us.szcz.pl/lexus_arch/?xml=load_page&st=13270&ar=1&id=7284&gs=&pid=17753 (accessed April 12, 2008).

¹⁸² Ibid.

¹⁸³ Andrew Heil, *Czechs Keep Check On Ex-Communists*, Special to The Christian Science Monitor (pre-1997 Fulltext), October 26, 1995, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=19969032&sid=2&Fmt=3&clientId=11969&RQT=309&VName=PQD> (accessed April 12, 2008).

of membership or affiliation.¹⁸⁴ For the Czech Republic, which at that time was pursuing NATO and European Union membership, there was a point, which could have been easily dismissed, that even the United States Congress had criticized the law, calling it a "human-rights problem" in one of its reports.¹⁸⁵

Czech lustration was based on the classified files of the secret police, which had not been checked—so that if a name even appeared on the lists, the individual could be named as a collaborator. About 10,000 people were so identified, nobody asking them whether they were guilty or had ever collaborated with the secret police.¹⁸⁶ What is more, people very often fell under suspicion by having refused to collaborate. Merely the attempt to recruit those people had left visible tracks in the files, which were misunderstood later as collaboration.¹⁸⁷

Individuals could appeal lustration decisions, and most of those who appealed cleared their names. They could also sue the interior ministry for slander. The ministry lost a huge majority of civil cases as courts demanded more evidence than the simple appearance of a name in a reconstructed list.¹⁸⁸ Another pointed weakness of lustration was that it relied on the files of the communist regime, which had been declared a

¹⁸⁴ Mark S. Ellis, *Purging the past: the current state of lustration laws in the former communist block*, Law and Contemporary Problems, Autumn 1996, [http://www.law.duke.edu/shell/cite.pl?59+Law+&+Contemp.+Probs.+181+\(Fall+1996\)#H2N1](http://www.law.duke.edu/shell/cite.pl?59+Law+&+Contemp.+Probs.+181+(Fall+1996)#H2N1) (accessed April 12, 2008).

¹⁸⁵ Andrew Heil, *Czechs Keep Check On Ex-Communists*, Special to The Christian Science Monitor (pre-1997 Fulltext), October 26, 1995, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=19969032&sid=2&Fmt=3&clientId=11969&RQT=309&VName=PQD> (accessed April 12, 2008).

¹⁸⁶ Ibid.

¹⁸⁷ Kieran Williams, *Czech Republic: A Scorecard for Czech Lustration*, Central European Review, Vol 1, No 19, 1 November 1999, <http://www.ce-review.org/99/19/williams19.html> (accessed April 13, 2008).

¹⁸⁸ Ibid.

criminal organization. As a result, a criminal organization was treated as a legitimate component in the Czech legal code, becoming a tool of revenge, not just part of coming to terms with the past.¹⁸⁹

Lustration in Czechoslovakia and, after 1993, in the Czech Republic, is not generally seen as similar to that pursued in other countries, which were usually trying to find political justice through criminal trials in the courts. The Czech way was not a revenge seeking, but a defense instrument for the fragile new democracy.¹⁹⁰ It was not meant to serve justice or to criminalize activities that were legal at the time. The elimination from public life of former communists was rather to prevent a reprise of February 1948, when communists used a governmental crisis to seize power through a coup,¹⁹¹ and to protect the new democracy from the former regime. However, the authors of the lustration law did not support their claims of real threat from the old regime by any comprehensive and convincing brief, thus giving another argument against lustration into the hands of their opponents.¹⁹²

Lustration helped the Czechs to come to terms with the past. Having introduced the law to preserve the new democracy from alleged dangers from persistent communists, the authors did not want to be charged with retroactivity. They turned the process over to the bureaucracy, removing it from discussion in public settings such as the parliament and helping inhibit discussion of the past in general— leaving the last two decades of communist rule in Czechoslovakia unexplored in academic and popular history.¹⁹³ What

¹⁸⁹ Andrew Heil, *Czechs Keep Check On Ex-Communists*, Special to The Christian Science Monitor (pre-1997 Fulltext), October 26, 1995, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=19969032&sid=2&Fmt=3&clientId=11969&RQT=309&VName=PQD> (accessed April 12, 2008).

¹⁹⁰ Kieran Williams, *Czech Republic: A Scorecard for Czech Lustration*, Central European Review, Vol. 1, No 19, 1 November 1999, <http://www.ce-review.org/99/19/williams19.html> (accessed April 13, 2008).

¹⁹¹ Michał Faszczka, *Zagadnienie lustracji w wybranych krajach Europy Wschodniej i Środkowo-Wschodniej: Część druga: Czechy i Słowacja*, Lexus-permanentnik studentów prawa, 2007, http://www.us.szc.pl/lexus_arch/?xml=load_page&st=13270&ar=1&id=7284&gs=&pid=17753 (accessed April 12, 2008).

¹⁹² Kieran Williams, *Czech Republic: A Scorecard for Czech Lustration*, Central European Review, Vol. 1, No 19, 1 November 1999, <http://www.ce-review.org/99/19/williams19.html> (accessed April 13, 2008).

¹⁹³ Ibid.

is more, the lustration law forestalled a process of wild lustration. Before the law was passed, there were many public accusations of collaboration with the communist secret police. The law replaced this policy with a confidential, bureaucratic process and instruments of appeal, significantly decreasing the number of denunciations. As a result, the lustration law decreased the political capital of denunciation, making the profitability of forging accusations much lower.¹⁹⁴ In addition, lustration brought into power new elites without ties to the past. The great majority of these elites could undergo lustration with no problem, so this change in the composition of the political and economy spheres seemed natural and obvious. Those who were lustrated positively were transferred to other, non-lustratable positions rather than dismissed, suggesting that lustration was not a ruthless process depriving people of their jobs.¹⁹⁵ It must be noted that although lustration was intended to protect national institutions from infiltration by the former communist nomenklatura, it neglected to impose lustration on the president, ministers, and members of parliament—while the lowly clerks working for them had to undergo the whole process to make sure that they did not pose a threat to the new democracy in its phase of consolidation.¹⁹⁶

C. COMPARISON WITH THE CASE OF POLAND

In regime change, old elites are replaced by new. If not, the old elite may still shape many aspects of national life. Breaking ties with the past demands breaking with the former holders of power. Lustration, decommunization, and denazification are examples of measures taken to achieve a fresh start. Lustration and decommunization have been essential instruments of peaceable elite change and their removal from Czechoslovakian and to some extent Polish state administration and public life and liquidating of their connections and ties. After WWII in Germany, the same function was handled by denazification. The aims of these processes are similar: to prevent the

¹⁹⁴ Kieran Williams, *Czech Republic: A Scorecard for Czech Lustration*, Central European Review, Vol. 1, No 19, 1 November 1999, <http://www.ce-review.org/99/19/williams19.html> (accessed April 13, 2008).

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

functionaries of old regimes from remaining in public service, whether in state education, the judiciary, law enforcement, parliamentary representation of the people, the holding of ministerial positions, or the shaping of public opinion via the media.

In Czechoslovakia and Germany, legislation concerning the past embraced both functionaries and collaborators with the secret services, as well as the members of the *nomenklatura*—significantly different from the case in Poland. Poland's lustration act bans secret collaborators from holding important positions in various spheres, but only if they conceal their collaboration and are subsequently found guilty by the courts. If they admit working for the communist secret services, there is no punishment meted. Moreover, Polish lustration concerns only workers and collaborators with the communist services. It says nothing about members of the party apparatus and *nomenklatura*. Thus decommunization, by definition, has not been conducted in Poland. After 1989, the Post-Communist Party won parliamentary elections twice and former high-ranking party members held the most important positions in the state (including the presidency, by former communist minister Aleksander Kwasniewski, the prime ministry, parliamentary speakers, and many other key positions in the executive, legislative, and judicial branches). In this way, Poland differs from Germany and Czechoslovakia, where top leaders and regime apparatus were excluded from public life, and even, as in Germany, convicted for the crimes they committed during their reign.

An important difference between post-communist Poland and post-Nazi Germany is that Polish regime change was evolutionary, whereas in post-Nazi Germany the transition was sudden, the regime abruptly ending to due to defeat in war. As a consequence of Poland's gradual emergence from totalitarianism, the border between communism and democracy was blurred, and so was responsibility for the bad things that happened in communist Poland—unlike the case in Germany, where people bore direct responsibility for the deeds of Nazism after the war.¹⁹⁷ Many hold that decommunization in Poland is necessary to improve the quality of Polish democracy, as was denazification in post-war Germany, which served as the basis for rebuilding and retaining democracy

¹⁹⁷ *Grzech zaniechania*, <http://www.dziennik.krakow.pl/public/?1999/12.13/Kraj/kr2/kr2.htm> (accessed May 6, 2008).

in the Federal Republic of Germany. In Germany after the war, the new law was imposed from the beginning, and nobody was interested in improving Nazi laws instead. Rather, Nazi laws were considered illegal, having been created and adopted by criminals. The new laws imposed were not created by prominent Nazis, but by those who did not participate significantly in Nazi crimes. By contrast, the complaint is made in Poland that a huge number of communist regulations and laws remain on the books and are not being reviewed fast enough. Moreover, new laws are enacted by parliaments that consist sometimes of a majority of communist party members and leaders. Decommunization, like denazification, it is claimed, protects nascent democracies from the influence of former anti-democratic regimes.

The opponents of decommunization in Poland maintain that the push to clean house is not for justice' sake, as in Germany, but for revenge, after almost twenty years. According to them, decommunization is a manipulation that leads to collective culpability for violating human rights. However, supporters claim that "not dealing with the past is a silent acceptance of the fact that justice and truth- foundations of our civilization-become empty slogans. That is why the example of denazification of Nazi Germany can be a model of European way of solving problems while abolishing the totalitarian system."¹⁹⁸

Though Poland and Czechoslovakia have similar legacies of communism, their cases are quite different. The Czechs, then the Slovaks, chose a frankly retributive model of dealing with the past, while the Polish model was semi-reconciliatory.¹⁹⁹ These countries' dealings with the past were driven by their different political circumstances in the transition to democracy. Poland was the first to overthrow communism, but she was one of the last to adopt some form of law concerning the past. The reason lies in her

¹⁹⁸ Marek M. Kaminski, Monika Nalepa, *Judging Transitional Justice. A new criterion for evaluating truth revelations procedures*, The Journal of conflict resolution, Vol. 50, No 3, June 2006, http://ft.csa.com.libproxy.nps.edu/ids70/resolver.php?sessid=g3ur9nqfnd9iqk0gj9lfsttmu3&server=www-md3.csa.com&check=5103f655a8761a01fd6aa753f7233d87&db=sagepol-set-c&key=0022-0027%2F10.1177_0022002706287046&mode=pdf (accessed May 5, 2008).

¹⁹⁹ Roman David, *Lustration laws in action: The motives and evaluation of lustration policy in the Czech Republic and Poland (1989-2001)*, Law & Social Inquiry, Chicago, Spring 2003, Vol. 28, Iss. 2, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=378089671&sid=2&Fmt=4&clientId=11969&RQT=309&VName=PQD> (accessed March 19, 2008).

negotiated transition, which allowed former communist party nomenklatura to remain on the political scene and efficiently block legislation on the matter. By contrast, Czechoslovakia's velvet revolution was not a result of negotiations won at the expense of concessions to the communist regime, but the result of regime's resignation in the face of a wave of regime changes in Eastern Europe. Thus Czechoslovakia's lustration law was one of the first to be unrestrained by former communists. The case of Germany is similar, wherein denazification laws were introduced immediately, with the support of the winning allies and without the participation of Nazi high officials.²⁰⁰ In Poland, however, there was ample time to diffuse any concentration on the past and give the powers opposed to a reckoning both the opportunity to neutralize it and to influence legislation. As a result, Poland still does not have a decommunization law and its lustration law has complex procedures and mild sanctions, especially for people owning up to their complicity;²⁰¹ whereas in Germany and Czechoslovakia, disqualification was imposed successfully.

In Poland, Czechoslovakia, and Germany, there was awareness that recomposition of the elite is key to regime transformation. An incompetent, corrupt, totalitarian machine can obstruct democratic change, and therefore pivotal democratic positions should not be held by "citizens previously involved in activities of the organs and organizations, which consciously suppressed democracy and human rights."²⁰² Though it can recomposition was accomplished in Germany and Czechoslovakia, in Poland it was not. It is widely believed, especially on the Polish right, that a network of former communist activists and secret agents are broadly spread in state administration and business, conducting numerous illegal activities and disturbing the process of democratic and economic reform in Poland.²⁰³

²⁰⁰ Roman David, *Lustration laws in action: The motives and evaluation of lustration policy in the Czech Republic and Poland (1989-2001)*, Law & Social Inquiry, Chicago, Spring 2003, Vol. 28, Iss. 2, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=378089671&sid=2&Fmt=4&clientId=11969&RQT=309&VName=PQD> (accessed March 19, 2008).

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ Ibid.

In Czechoslovakian lustration, a positive lustration bars a person from holding a position in a democratic regime, which means his disqualification; while in Poland, the aim is to prove the truthfulness of an affidavit submitted by a candidate for office. This means that persons collaborating with the communist regime are not disqualified from public life if they make a true statement regarding their past and their ties with the secret police. Their affidavit can be condemned publicly and they can be forced by public pressure to resign from an office or candidacy. Nevertheless, there is no law banning them outright if their affidavit is true, regardless of content—unlike in Czechoslovakia, where “the threat to democracy is reduced by removing some members of the totalitarian machinery from leading positions. In Poland, a revelation of past collaboration is officially published that gives the public an opportunity to control the steps taken by these officials, while a false affidavit leads to their removal from public office.”²⁰⁴

Evaluating the efficacy of laws pertaining to the past in Poland, Czechoslovakia, and Germany, it can be said that good results in neutralizing the influence of old regimes on the new democratic order were obtained by inacting condign processes in the latter two countries. In Poland, because of lack of decommunization, the influence of the old elites is clearly visible even in the highest levels of state administration. Although implementation of a lustration law in 1997 (revised in 2006) helped mitigate old influences, the examples of Germany and Czechoslovakia—who dealt firmly with the past during their transition to democracy, market economics, and governmental reform—suggest that Poland’s reckoning should be continued and finished.

²⁰⁴ Roman David, *Lustration laws in action: The motives and evaluation of lustration policy in the Czech Republic and Poland (1989-2001)*, Law & Social Inquiry, Chicago, Spring 2003, Vol. 28, Iss. 2, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=378089671&sid=2&Fmt=4&clientId=11969&RQT=309&VName=PQD> (accessed March 19, 2008).

V. CONCLUSIONS

The Roundtable Talks are of utmost importance in the history of Poland. Their very name symbolically affirmed the parity of two opposed camps and the exercise of goodwill in crafting compromise. These unprecedented negotiations between the communist apparat and the workers launched the transformation of Poland's political and economic order, and the reforms that came out of them were foundational to the restoration of democracy in the land. The accords were achieved in a civil, unbloody manner, a remarkable achievement for an opposition that had known ruthless suppression—the last time barely eight years before—by an entrenched power structure determined to preserve itself and willing to use force. Whatever the opinions and judgments heard in Poland today, the vital importance of the Roundtable Talks in precipitating the breakup of Polish communism cannot be denied. The peaceful revolution launched by the Roundtable Talks enabled a pacific transfer of power and evolutionary reforms (though some remnants of communism persist today). In 1989, Poland again became a democracy—without violent upheaval as in Romania—and thus launched a wave of liberty that shook all Eastern Europe and resulted in the collapse of the Berlin Wall, the disintegration of the Soviet Union, and the end of more than forty years of communist rule in this part of the world.

However, despite the events of 1989 and their many positive fruits, Poland is still vexed with problems inherited from the communist regime. The issues of lustration and decommunization are returning to the political agenda, with both supporters and fierce opponents. The latter, mainly from the political left, argue that the past should not be an issue anymore and that lustration and decommunization are really intended as weapons in political clashes between parties. The former, supporters of unrestricted access to secret-police archives, maintain that lustration and decommunization would be priceless tools in uprooting the ill effects of communism still suffered after almost twenty years. They believe that decommunization would clean up the political scene, taking out those directly and prominently involved in the regime, whose deeds make them responsible in part for the pathologies of the communist legacy.

There is broad discussion in Poland as to the manner in which decommunization and lustration should be conducted (if at all) and how to treat people who worked with the regime. On one hand, it is believed that persecuted individuals have the moral privilege of knowing who was informing on them; on the other hand, it is generally agreed that such revelation should not be made publicly, in the flash of cameras, because the reasons people collaborated vary significantly. Some did so just to advance their career or make extra money; but there are those who collaborated under threat of blackmail or feared for their lives, or their families' lives. What serves as everyday fodder for another sensational news story can be in reality a personal tragedy if only the fact of cooperation is revealed, not the motives and circumstances. Such a sensitive issue must be handled circumspectly to prevent abuse by revenge seekers who might be eager to deny their old persecutors a fair trial and the right of defense. Lustration must not be capable of use as a clout when political power is threatened or wielded to gain sympathy and silence opposition. Moreover, accusations of collaboration must be handled carefully and skeptically, since secret-police archives are believed incomplete and in some parts forged. "While revolutions seek to break with the past by identifying and punishing members of the old regime, and by excluding its beneficiaries and minor functionaries from full participation in the new system, transitions discourage retroactive punishment for complicity with the old order. Acknowledging that most people living under an authoritarian regime are in some ways 'complicit' with it (for their livelihood, advancement of life chances, or simply out of fear), transitional procedures relegate punishment of crimes to courts of law, with legal action limited to acts in violation of statutes in force at that time. Prosecution or discrimination under 'lustration' or 'decommunization' tribunals or by legislative decrees is explicitly rejected."²⁰⁵

²⁰⁵ Charles C. Bertschi, *Lustration and the transition to democracy: The cases of Poland and Bulgaria*, East European Quarterly. Boulder: Winter 1994. Vol. 28, Iss. 4, <http://libproxy.nps.edu/login?url=http://proquest.umi.com.libproxy.nps.edu/pqdweb?did=4581110&sid=1&Fmt=3&clientId=11969&RQT=309&VName=PQD> (accessed April 13, 2008).

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